

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

(113)

RSA-5654-2016 (O&M)

Date of Decision: October 31, 2018.

Balraj Singh

..Appellant

Versus

Durga Mandir Parbandhak Committee and others.

..Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Veneet Sharma, Advocate, for the appellant.

AMIT RAWAL, J. (ORAL)

CM-14806-C-2016

For the reasons stated in the application, delay of 1281 days in re-filing the appeal is condoned.

RSA-5654-2016

The appellant-defendant No.1 has not been successful in defending the suit for declaration filed by the respondents-plaintiffs claiming ownership and possession on the basis of the title. The plaintiffs sought declaration on the premise that defendant No.1 was owner in possession of 6/21 share of the land bearing khasra No.820/23 situated in village Tung Bala Suburban, Amritsar as per jamabandi for the year 1991-1992 after purchasing the same from one Rupinder Singh son of Karam Singh. The defendant No.1 executed General Power of Attorney dated 04.04.1996 in favour of defendant No.2- Jaswinder Singh. On the basis of General Power of Attorney, defendant No.1 sold the land to defendant No.3 vide registered sale deed dated 07.06.1996 with the specific boundary. Plaintiff No.1 through plaintiff No.2 purchased the plot measuring 177 sq. yards, actually 168.47 sq. yards, on the spot, vide registered sale deed dated

12.03.1999 from defendant No.3 for consideration of Rs.2,12,000/- but defendant No.1 claimed title, ownership without any cause of action.

The appellant-defendant contested the suit by denying the execution of power of attorney in favour of Jaswinder Singh as well as sale deed aforementioned. On the preponderance of evidence, the trial Court decreed the suit holding that the plaintiff No.1 is to be owner in possession of property in dispute but did not grant possession.

Mr. Veneet Sharma, Advocate appearing on behalf of the appellant, submitted that power of attorney, prima faice, was forged and fabricated document. Plaintiffs have not discharged the onus required for the purpose of claiming declaration as Jaswinder Singh had not been examined. It is not necessary that a document, which is registered, carries a presumption of truth if on naked eye, it was found to be forged and fabricated.

I am afraid that the aforesaid arguments of the learned counsel for the appellant is not sustainable as registered document carries a presumption of truth. It was obligatory on the part of the appellant-defendant to challenge the aforesaid document in the proceedings.

Even sought relief against Jaswinder Singh for recovery of the sale consideration. Be that as it may, the appellant-defendant did not challenge the title in favour of the plaintiff which has been proved through the testimony of the witnesses.

In such circumstances, the Courts below have no other option but to decree the suit.

No ground is made out for interference in the impugned judgments and decrees of the Courts below, which are based upon the appreciation of oral and documentary evidence.

Resultantly, the appeal is dismissed

October 31, 2018.

harsha

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No