

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

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RSA No.2028 of 2017 (O & M)
Date of Decision:16.08.2018

Rajpal Kaur

...Appellant

Versus

Jaspreet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Karan Bhardwaj, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit for declaration that the plaintiff is owner in possession of land to the extent of 1/3rd share in the land measuring 141 kanals and 12 marlas. She also challenged the sale deed executed by the plaintiff and other sisters through defendant No.3 as General Power of Attorney in favour of defendants No.1 and 2. Gamdoor Singh, original owner of the property, died in the year 1974. Gamdoor Singh had left behind one son Paramjit Singh, widow Gurjeet Kaur @ Gurpreet Kaur and three daughters Rajpal Kaur (plaintiff), Amritpal Kaur and Jasvinder Kaur. It is the case of the defendant that Gamdoor Singh executed a Will on 17.04.1974 making an arrangement that his daughters would enjoy the usufruct of the land and once they are married all the entire property would go to the son.

Plaintiff as well as other daughters got married after the death

of Gamdoor Singh, executed three power of attorneys in favour of their brother Gamdoor Singh. The General Power of Attorney executed by the plaintiff in favour of his brother is dated 03.05.1995. This power of attorney is attested by a marginal witness namely Smt. Amritpal Kaur, the other sister. Suit was filed in the year 2006, claiming that she was owner of the property. Paramjit Singh had transferred the property in favour of his sons Jaspreet Singh and Mandeep Singh defendants No.1 and 2.

Both the Courts after examining the evidence have found no merit in the claim made by the plaintiffs.

Learned counsel for the appellant submitted that once a hand writing and finger print expert had been examined, who had opined that signatures of the plaintiff on the General Power of Attorney are different when compared with her standard signatures, then, the Court ought to have disbelieve the General Power of Attorney.

It may be noted that both the parties had examined hand writing and finger print expert, who had given opinion contradictory to each other. In the present case, Courts below have relied upon direct evidence i.e. evidence of DW-2 Amritpal Kaur, the attesting witness of General Power of Attorney, who is none else than sister of the plaintiff. She has specifically stated that the plaintiff on her own Will had given General Power of Attorney to her brother.

Still further, mother of the parties namely Gurjeet Kaur @ Gurpreet Kaur has appeared in the evidence as DW-1 and has stated that after the marriage of all the three sisters have themselves gave General Power of Attorney in favour of Paramjit Singh.

In view of the direct evidence available on the file, Courts have

rightly ignored the opinion of the experts. The expert opinion is not binding upon the Courts.

Keeping in view that the Courts below have correctly appreciated the evidence available on the file, this Court does not find any good ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

16.08.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No