

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3248 of 2017 (O&M)
Date of Order: 09.08.2018

Jai Singh(since deceased) through his LR's and another

..Appellants

Versus

Labh Singh Sandhu and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Singh, Advocate and
Mr. Abhinav Sood, Advocate,
for the appellants.

ANIL KSHETARPAL, J(Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

Plaintiffs had filed a suit for declaration claiming that the sale deeds executed by them through General Power of Attorney are illegal and therefore liable to be set aside. Plaintiffs also prayed that a decree for permanent injunction be passed restraining the defendants from raising any construction or in the alternative plaintiffs be awarded decree for rendition of accounts regarding sale deeds executed. Plaintiffs also prayed for relief of possession as an alternative relief.

Defendants contested the suit and pleaded that they are purchasers for valuable consideration through registered sale deeds. It may be noted that plaintiffs no.1 and 2 are father and daughter. Plaintiff no.1 has died, who has executed a General Power of Attorney in favour of his

daughter dated 17.08.2006. In the General Power of Attorney, power was also given to plaintiff no.2 to appoint a Special Power of Attorney and on 15.12.2006 plaintiff no.2 appointed Special Power of Attorney in favour of defendants no.1 and 2. Defendants no.1 and 2 executed sale deeds dated 07/05.2007, 08.11.2007, 25.02.2008, 13.06.2008 and 26.08.2009 and others.

Learned trial court noticed that plaintiff no.1 had appeared in the witness box but his cross-examination could not be completed as he was declared unfit to depose before the court due to old age.

Plaintiff no.2 appeared as PW2 and admitted that her husband has retired from the post of District Town Planner. She admitted that General Power of Attorney given by plaintiff no.1 had enabled her to appoint a Special Power of Attorney and she executed Special Power of Attorney in favour of defendants no.1 and 2 and her husband signed the same as a witness.

Still further, the learned trial court found that Smt. Sudesh Kumari, plaintiff no.2, also executed a sale deed on 30.11.2006, Ex.P4, in favour of Labh Singh and Sanjay. With these findings, the learned trial court dismissed the suit and the first appeal preferred was also dismissed after re-appreciating the evidence.

Learned counsel appearing for the appellants, although, made sincere attempt to persuade this court to take a different view, however, keeping in view that the learned counsel could not point out any perversity, illegality, non reading or misreading of evidence by the courts below, learned counsel was not successful.

In such circumstances, this court while exercising jurisdiction

of second appeal, cannot interfere with the findings of fact arrived at by the courts below, which are based upon proper appreciation of evidence.

Hence, the regular second appeal is dismissed.

August 09, 2018
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(ANIL KSHETARPAL)
JUDGE

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