

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

RSA No.5738 of 2017(O&M)

Date of decision: 23.8.2018

Pargat Singh

....Appellant

VERSUS

Sanjeev Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Satbir Gill, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration that the plaintiffs including the appellant are co-sharers in joint possession to the extent of 1/9th share each in land measuring 90 kanals, detailed in head-note of the plaint and Special Power of Attorney dated 19.02.2007 allegedly executed by plaintiff No.3 for herself and on behalf of plaintiffs No.1 and 2 in favour of defendant No.1 in respect of land measuring 16 kanal 4 marlas is illegal, null and void, inoperative and ineffective, being result of fraud and misrepresentation, thus liable to be set aside and the sale deed dated 01.10.2007 executed by defendant No.1 on behalf of plaintiff and others in respect of share of the plaintiffs is wrong, without consideration, forged and fabricated and result of fraud and mutation sanctioned on its basis being liable to be set aside coupled with consequential relief of permanent injunction was dismissed by the trial Court vide judgment and decree dated 05.11.2014 whereas the appeal

preferred by the plaintiffs No.1 and 2 including the appellant did not find favour with the Additional District Judge, Amritsar.

Indisputably, plaintiffs No.1 and 2 are the real brothers of Lakhwinder Kaur – plaintiff No.3. Plaintiffs No.1 and 2 executed power of attorney in favour of their sister – plaintiff No.3. On the basis of power of attorney, plaintiff No.3 further executed a power of attorney on behalf of plaintiffs No.1 and 2 as well as for herself in favour of defendant No.1 and on the basis thereof, defendant No.1 executed sale deed qua land in dispute in favour of defendants No.2 and 3. The plaintiffs filed the suit to challenge authority of defendant No.1 to sell the land in question in favour of defendants No.2 and 3 vide sale deed dated 01.10.2007 on the basis whereof mutation was sanctioned in favour of the purchaser. The Court in appeal in paras 18 and 19 of the judgment has taken note of various facts elicited in cross examination of Pargat Singh – plaintiff No.1 (appellant herein) and Lakhwinder Kaur – plaintiff No.3, examined to substantiate averments raised in the plaint to say that no power of attorney was executed by plaintiff No.3 in favour of defendant No.1 authorising him to alienate the land in question.

Counsel for the appellants has not disputed correctness of the facts noticed by the Court in appeal as brought-forth in the testimonies of Pargat Singh – PW1 and Lakhwinder Kaur - PW-2. Taking into consideration the material facts elicited in cross examination of the aforesaid witnesses, it is difficult to accept contention of the appellant that concurrent findings recorded by the Courts suffer from an error much less perversity warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application

for condoning delay of 100 days in re-filing the appeal is of academic
relevance only.

AUGUST 23, 2018

‘D. Gulati’

Whether speaking/reasoned

Whether reportable

:

:

(REKHA MITTAL)

JUDGE

yes/no

yes/no