

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 638 of 2005 (O&M)

Date of Decision: 03.04.2019

Bakhshish Singh and others

...Appellants

VERSUS

Karan Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S. Grewal, Advocate
for the appellants.

Mr. Ajay Pal Singh, Advocate
for respondents no. 1 to 3.

None for respondent no. 4.

SURINDER GUPTA, J.

Heard.

Plaintiffs, Karan Singh, Amandeep Singh and Kamlesh Kumari @ Ramesh Kumari, who were minor, filed suit through their guardian challenging general power of attorney dated 29.05.1991, alleged to have been executed in favour of defendant no. 5-Simro Devi @ Simri Devi, their mother, and subsequent sale deed executed by her of their share in the land in dispute.

Learned trial Court on appraisal of evidence held general power of attorney dated 29.05.1991 as illegal, null and void and consequent sale deed executed by defendant no. 5 on behalf of plaintiffs regarding their share in the suit land was set aside and plaintiffs were held to be entitled to joint possession of 1/6th share in the suit land measuring 145 *kanals* 1 *marla*.

Feeling aggrieved appellants filed appeal before Additional

District Judge, Gurdaspur, which was dismissed.

Learned counsel for appellants has argued that appellants were *bona fide* purchasers of suit land on the basis of general power of attorney executed by plaintiffs in favour of their mother. Though, he has not disputed the findings of Courts below that plaintiffs were minor at the time of execution of general power of attorney and the sale deed.

The question, which arises for consideration, is as to whether the appellants could raise the plea that they are *bona fide* purchasers of the suit land despite the proof of fact that plaintiffs at the time of execution of general power of attorney were minor and the sale deed in favour of appellants was also executed during the period of minority of plaintiffs.

Learned counsel for the appellants could not cite any law or citation in support of his contention.

It is a well settled proposition of law that being minor plaintiffs could not execute any general power of attorney authorizing their mother to alienate their property. The only course opened for their mother was to seek permission of Guardian Judge to alienate share of appellants, which was admittedly not obtained.

The arguments advanced by learned counsel for appellants being devoid of merit are discarded.

This appeal has no merit and the same is dismissed.

April 03, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No