

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

**RSA No.1964 of 2006 (O&M)
Date of Order: 01.03.2019**

Guro

..Appellant

Versus

Harbhajan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Chopra, Advocate,
for the appellant.

Mr. Rishabh Gupta, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court reversing the judgment and decree passed by the trial court.

Question which needs consideration is “whether findings of fraud can be arrived at merely on the basis of suspicion, howsoever grave it may be and inferences?

Guro-plaintiff-appellant was the only daughter of her father having inherited sufficient land. She herself executed a sale deed herself in favour of Harbhajan Singh, Ex.D6 dated 10.08.1982. Thereafter, she executed a special power of attorney dated 17.07.1989 in favour of Ajaib Singh, father of Harbhajan Singh, defendant no.1. Thereafter, she executed a general power of attorney on 06.02.1992 through which power to sell was also given in favour of Ajaib Singh. It has come in evidence that she was

having dealing with family of Ajaib Singh and also worked with the family as a helping hand. Through the present litigation, she has challenged the registered sale deed executed on the basis of attorney dated 06.02.1992 pleading that the power of attorney dated 06.02.1992 is result of fraud as she was taken to the office of Sub-Registrar under the pretext of sanction of the old age pension.

Learned first appellate court while re-appreciating the evidence has found that the plaintiff has failed to prove fraud. It is well settled that the fraud is to be proved beyond any reasonable doubt. The standard proof required is akin to criminal trial. Plaintiff came to the court pleading that she is working as a servant and therefore, on account of misrepresentation by her employer, she executed power of attorney dated 06.02.1992. However, as noticed above, it is not the first attorney in fact she executed a sale deed in 1982 in favour of Harbhajan Singh. It has also come in evidence that she has appeared in court in evidence after being instructed and guided by Parkash Singh, who is father-in-law of defendant no.3 in whose favour also a sale deed had been executed by the plaintiff on 01.08.1996.

The learned first appellate court also found that the simpliciter suit for declaration with consequential relief of permanent injunction is not maintainable as she has to seek cancellation of the sale deed as provided in Section 31 of the Specific Relief Act.

Learned counsel for the appellant has submitted that the power of attorney in favour of Ajaib Singh has not been proved by examining attesting witnesses. On being asked, learned counsel could not draw attention of the court to any provision of law which requires registered

power of attorney to be compulsorily attested by two attesting witnesses. In absence thereof, the power of attorney is to be proved as a document which does not require registration. Official from the office of Sub-Registrar has been examined. Signatures on the power of attorney are admitted. The thumb impressions before the Sub-Registrar are also not disputed. A registered document has a presumption of truth and unless establish otherwise the court has to rely upon such documents.

In view thereof, this court does not find any ground to interfere.

The regular second appeal is dismissed.

March 01, 2019
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(ANIL KSHETARPAL)
JUDGE

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