

In the High Court of Punjab and Haryana at Chandigarh

RSA- 4286 of 2019 (O&M)
Date of Decision: 22.10.2019

Lachhman Singh

---Appellant

versus

Bhajan Kaur

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. D.K.Bhatti, Advocate
for the appellant

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration that appellant-plaintiff is exclusive owner of property bearing H.No. 83, situated at Gurjaipal Nagar, Jalandhar by assailing gift deed dated 20.8.2010 executed by Sant Baba Joginder Singh as attorney of the appellant in favour of Bhajan Kaur, wife of Sant Baba Joginder Singh, was dismissed by the trial court vide judgment and decree dated 31.1.2017 that came to be affirmed in appeal by the District Judge, Jalandhar.

The courts have consistently held that power of attorney in favour of Sant Baba Joginder Singh was executed by the appellant in Manila and the same bears signatures of wife of the appellant. The Courts have negated plea of the appellant that said power of attorney is the result of fraud etc.

Counsel has not made any submissions to assail findings of the

courts with regard to correctness of power of attorney on the basis whereof Sant Baba Joginder Singh executed the gift deed in question in favour of Bhajan Kaur, his wife.

Counsel would argue that perusal of the Power of Attorney, copy whereof is Annexure A/1, would reveal that most of the powers given to the attorney holder are in respect of management of the property in dispute, therefore, the attorney has abused and misused his authority by executing a gift deed in favour of his wife.

Another submission made by counsel is that gift deed, if any, could be executed by agent of the principal in favour of a person for whom the appellant had love and affection. It is further argued that since beneficiary under the gift deed is the wife of the attorney holder for whom the appellant had no consideration much less love and affection, gift deed is liable to be set aside. Counsel has also made an attempt to make reference to the provisions of Section 202 of the Contract Act.

I have heard counsel for the appellant, perused the paper book particularly the judgments impugned.

As has been noticed hereinbefore, counsel has not made any submissions to challenge validity and authenticity of power of attorney executed in Manila which is also signed by wife of the the appellant. Perusal of Annexure A/1 would reveal that the appellant executed power of attorney authorizing the attorney to do the things, deeds and acts on his behalf in respect of House No. 83 measuring 10 marlas situated at Gurjaipal Nagar, Jalandhar. Para 1 of the general power of attorney says "to sell, to gift, transfer in any manner, manage, control and supervise the said house in all respects and to represent me before each and every concerned authority

in this regard". The remaining paras deal with authority given for appointing special attorney, giving undertaking before certain authorities to get any document register with the Sub Registrar in respect of the house, receive payments in respect of the property and so on.

Perusal of the aforesaid extract makes it evident that attorney holder was given power to sell and gift the property without any rider and qualification. Once the appellant has authorized the attorney holder to sell the property or gift the same, it is difficult to accept his contention that either the authority was given only for management of the property or the attorney holder was not entitle to gift the property in favour of a particular person. In this view of the matter, contentions raised by appellant are not meritorious and rejected.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 110 days in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

22.10.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No