

RSA-4730-2015 (O&M)

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

RSA-4730-2015 (O&M)

Date of decision : 22.02.2019

Surinder Singh

... Appellant

Versus

Mohinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashish Gupta, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration to be owner of a land/house measuring 3 marlas, i.e. suit property, allegedly sold by his father Bhura Singh, vide sale deed dated 21.10.2009, registered on 23.10.2009, on the basis of the registered Special Power of Attorney dated 12.10.2009, in favour of the defendant i.e. sister-in-law (Bhabi) of the plaintiff.

It was alleged that the plaintiff acquired the ownership of the property on the basis of the collusive decree of 1988 suffered by Bhura Singh, in favour of the plaintiff and since then, he was in possession of the property.

The defendant opposed the suit and stated that the sale deed was for a valuable consideration. If at all, the plaintiff did not receive the money from Bhura Singh, it was a dispute of only settlement of account, but

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the sale deed could not have been set aside on that point.

Both the parties examined the witnesses in support of their respective pleadings.

Mr. Ashish Gupta, learned counsel appearing on behalf of the appellant-plaintiff submitted that Bhura Singh had executed an affidavit on 12.10.2009 (Ex.P2), wherein, he obtained the Special Power of Attorney by building undue influence and out of threat and coercion, in such circumstances, the appellant-plaintiff was compelled to execute the Special Power of Attorney and the act was not on account of his own volition and will and urges this Court for setting aside the concurrent findings, under challenge as this point has not been dealt with by the Courts below in correct perspective.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Gupta, for, Special Power of Attorney is a registered document. Bhura Singh died on 15.01.2010, even then, no steps were taken to file the suit. On 22.07.2010, after six months, the aforementioned suit was filed. If at all, sale deed was without consideration, cannot be presumed that Bhura Singh did not receive as it was a settlement of the sale proceedings amongst the plaintiff and Bhura Singh, for, the defendant had parted with the consideration. It is also a matter of fact that the plaintiff was not exclusive owner as he acquired the ownership, in view of the collusive decree *ibid*.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Gupta, to form a different opinion than the one already

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arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

22.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**