

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

LPA No. 255 of 2019 (O&M)

Date of Decision: 04.02.2019

Manjinder Kaur

.....Appellant

versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Harchand Singh Batth, Advocate,
for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

CM No. 556-LPA of 2019

Heard. For the reasons mentioned in the application, delay of 68 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 255 of 2019

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 13.09.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellant challenging the order dated 31.03.2011 passed by the Collector, Amritsar setting aside the order dated 16.02.2010 passed by the Assistant Collector Ist Grade-cum-Sub Divisional Magistrate directing mutation on the basis of the sale deed dated 21.08.2003; as well as the order dated 19.12.2014 passed by the Commissioner, Jalandhar Division and order dated 15.03.2017 passed by the Financial Commissioner (Revenue), Punjab.

2. Relevant facts required to be noticed for an effective adjudication of the controversy are as under:-

One Sawinder Singh son of Puran Singh executed a General Power of Attorney in favour of her mother Smt. Piar Kaur alias Piari. On the strength whereof, Smt. Piar Kaur executed a conveyance-deed dated 21.08.2003 in favour of the husband of the appellant-petitioner in respect of the land measuring 8 Kanals for a consideration of ₹ 3 lacs. In the conveyance deed it is specifically recorded that it was being executed on the strength of the Power of Attorney dated 09.02.2000 registered vide Vasika No. 425 in the office of Sub Registrar, Batala. The recital also contains a stipulation that the executant of the power of attorney is alive and the attorney has not been cancelled. On the strength of the sale deed, an application to sanction mutation in the name of the vendee in the revenue record was made before the Assistant Collector Ist Grade-cum-Sub Divisional Magistrate, Baba Bakala, District Amritsar. The proceedings were resisted by respondent No.5 by making an application with the prayer that mutation on the basis of the sale deed be not sanctioned as she has not received the consideration amount. Respondent No.4-Assistant Collector Ist Grade allowed the mutation application. Respondent No.5 went up in appeal before the Collector, Amritsar which was allowed and the order passed by the Assistant Collector Ist Grade-cum-Sub Divisional Magistrate sanctioning the mutation was set aside.

Aggrieved the appellant-petitioner approached the Commissioner, Jalandhar Division, Jalandhar by way of an appeal which was dismissed. The appellate order was challenged by the appellant-petitioner by filing a revision before the Financial Commissioner (Revenue) which was also dismissed. The orders were challenged by filing a writ

petition which has also been dismissed by the order impugned in the present Letters Patent Appeal.

3. The Collector, Amritsar referring to the certificate issued by the Local Registrar, Births & Deaths, District Amritsar, certifying that Sawinder Singh died on 10.04.1993 and the conflicting statement made by respondent No.5 that her son is alive, though failed to produce any documentary evidence, came to the conclusion that this was a disputed question of fact which could only be adjudicated by a competent Civil Court and set aside the mutation sanctioned by the Assistant Collector. He further directed that the decree, if any, passed by the Civil Court will be liable to be implemented by the Revenue Officer in the revenue record.

4. The Commissioner, Jalandar Division, Jalandhar, and the Financial Commissioner (Revenue) confirmed the findings recorded by the Collector. The learned Single Judge also confirmed the findings that the issue involved disputed question of fact which cannot be gone into in the writ jurisdiction and thus the order passed by the Collector, Amritsar and confirmed in appeal and the revision by the Commissioner and the Financial Commissioner (Revenue), respectively, does not suffer from any illegality or irregularity warranting any interference.

5. After having heard learned counsel for the appellant we are also of the considered opinion that the issue involved centres around disputed question of fact with respect to the death of attorney the son of respondent No.5. The validity of the sale-deed would depend upon the fact as to whether the attorney was alive on the date of execution of the conveyance deed or had died prior to it. In case he died prior to the execution of the conveyance deed, obviously the power of attorney will have no right to execute the sale deed.

6. In the case in hand the date of death of the attorney is disputed and thus there is also an issue with regard to the validity of the power of attorney. All these disputed questions of fact can only be gone into by a competent Court having jurisdiction to receive evidence.

7. In view of the above, we do not find any illegality in the view taken by the learned Single Judge in dismissing the writ petition with liberty to the appellant-petitioner to seek her legal remedy before the Civil Court.

The appeal is thus devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.02.2019
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√