

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

RSA-4586-2011 (O&M)
Date of decision : 04.02.2020

Om Swarup and another

...Appellants

Versus

Jaswanti and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Santosh Sharma, Advocate for the appellants.

Mr. Mani Ram Verma, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the findings of fact arrived at by the learned First Appellate Court resulting in dismissal of the suit filed by the plaintiffs seeking decree of declaration to the effect that late Smt. Chhoti, daughter of late Sh. Ami Lal, remained owner of the suit land during her lifetime.

In fact, the plaintiffs, the sons of late Smt. Chhoti, are challenging the correctness of a registered power of attorney dated 28.10.2002 allegedly executed by Smt. Chhoti in favour of grandson of his brother defendant No.1-Ram Chander. Challenge is also to the release/transfer deed dated 31.10.2002 executed by defendant No.1-Ram Chander as an attorney of Smt. Chhoti in favour of his wife Jaswanti.

The property in dispute is situated in Village Rawaldhi, District

Charkhi Dadri. Smt. Chhoti was born and brought up in Village Rawaldhi. After her marriage, she started residing in Village Bamla. The property in dispute was inherited by Smt. Chhoti from her father Ami Lal.

Smt. Chhoti had two brothers namely Chiranji and Badlu. Badlu was unmarried. Ram Chander is son of Hawa Singh son of Chiranji. Smt. Chhoti executed a general power of attorney in favour of grandson of her brother on 28.10.2002 by authorizing to sell, mortgage, gift, transfer, give it on lease, execute release deed as also contest all the litigations. Thus, Ram Chander was specifically authorized to execute the release deed. Pursuant thereto, Ram Chander has executed the release deed dated 31.10.2002.

Learned trial Court, on the basis of assumptions, held that general power of attorney is surrounded by suspicious circumstances and hence not binding on the rights of the plaintiffs. However, learned First Appellate Court, on re-appreciation of evidence, found that mere strong suspicion cannot be the ground to discard a registered document. Still further, First Appellate Court has also noticed that the plaintiffs have failed to prove as to how general power of attorney executed by Smt. Chhoti was result of fraud or manipulations.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the requisitioned record.

This Court has carefully read general power of attorney Ex.P1. It is apparent from the reading of the general power of attorney that Smt. Chhoti had appointed Ram Chander-defendant No.1 as her power of

attorney holder. She had authorized Ram Chander to execute the sale deed, mortgage the land, gift the property, execute the transfer deed, execute lease deed, as also release deed. This general power of attorney is registered with the Office of Sub-Registrar. Smt. Chhoti appeared before the office of Sub-Registrar and admitted the execution of the general power of attorney. The general power of attorney also bears photograph of the executant printed on the reverse of leaf No.2. Correctness of photograph of Smt. Chhoti is not in dispute.

Keeping in view the facts of the case particularly when the property in question was inherited by Smt. Chhoti from her father and is located in the village where she was born and brought up, this Court does not find any good ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

04.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No