

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 4310 of 2018
Date of Decision: 12.2.2020**

Jawala Bai

---Appellant

versus

Jangir Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Anupam, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against decree and judgment dated 16.12.2017 passed by the Additional District Judge, Fazilka whereby appeal filed by plaintiff No. 2 against the decree and judgment dated 29.5.2015 passed by the trial court dismissing suit of the respondents-plaintiffs for declaration and permanent injunction, was allowed, impugned judgment and decree was set aside and suit qua respondent-plaintiff No. 2 was decreed to the following effect:-

“..... suit for declaration and permanent injunction qua appellant/plaintiff No. 2 Jangir Kaur is decreed with costs throughout both the courts. The sale deed dated 5.5.2010 registered as deed No. 475 in the office of Sub Registrar Fazilka executed by Gurmeet Singh respondent/defendant No. 1 in favour of Jawala Bai respondent/defendant No. 2 is illegal, null and void and is not binding on the rights of

appellant/plaintiff No. 2 Jangir Kaur. Appellant Jangir Kaur continues to be co-owner regarding 1/9 share in land measuring 09 kanals 11 marals bearing Rect. No. 65 killa No. 7(1-7) 8 (0-4) 14 (8-0) situated in the revenue estate of village Behak Khass, Tehsil Fazilka irrespective of the sale deed dated 5.5.2010. The mutation No. 3273 entered and sanctioned on the basis of sale deed dated 5.5.2010 is also set aside to the extent of 1/9 share of appellant in this land. The revenue authorities are directed to show Jangir Kaur appellant as co-owner to the extent of 1/9 share in the aforesaid land measuring 09 kanals 11 marlas in the revenue record. The respondent No. 2 Jawala Bai is restrained permanently from alienating in any way the aforesaid land....”

Perusal of judgment impugned would reveal that respondents-plaintiffs sought declaration with regard to their ownership of the suit land by assailing sale deed dated 5.5.2010 executed by defendant No. 1 in favour of defendant No. 2 (appellant herein) on the basis of registered general power of attorney dated 6.11.2009 that stood cancelled vide registered cancellation deed dated 29.3.2010.

The sole submission made by counsel for the appellant is that appellant is an illiterate rustic villager and she did not have knowledge of cancellation of power of attorney by respondents-plaintiffs, therefore, she is entitle to protect sale in her favour effected by Gurmeet Singh defendant No. 1.

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

Be that as it may, it is undisputed position of the case that appellant is none else but real sister of Gurmeet Singh-defendant No. 1. It has been proved on record that registering authority sent a notice to Gurmeet Singh with regard to cancellation of power of attorney vide cancellation deed dated 29.3.2010. Gurmeet Singh did not appear in the witness box to support cause of the appellant that he did not have knowledge of cancellation of power of attorney prior to execution of sale deed dated 5.5.2010. It has also been established on record that power of attorney dated 6.11.2009, cancellation deed dated 29.3.2010 and sale deed dated 5.5.2010 were got registered in the office of the same registering authority. Taking into consideration the above, aforesaid contention raised by counsel is not enough to interfere in the well considered and well founded findings of the Court in Appeal accepting claim of respondent-plaintiff No. 2 that sale deed dated 5.5.2010 executed by Gurmeet Singh-defendant No. 1, does not have any adverse effect on her rights in the suit land to the aforesaid extent.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

12.2.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No