

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3407 of 2013 (O&M)
Date of decision: 05.09.2022

Jugraj Singh

..Petitioner

Versus

Gurwinder Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Mukund Gupta, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

The plaintiff assails the correctness of the an interlocutory order passed by the trial court while permitting the defendants to amend the written statement.

The plaintiff has filed a suit for declaration that the mutation of alleged exchange no.19603, dated 29.04.1995, regarding 1/7th share in the land measuring 2 bighas in favour of defendant no.1 to 4, is illegal. He also prayed for the declaration for joint possession with the consequential relief of permanent injunction.

During the pendency of the suit, the defendants filed an application in order to incorporate the following facts in his written statement:-

“It is important to mention here that Sh. Jugraj Singh vide registered power of attorney No.36 dated 08.09.1982 had appointed S. Tara Singh son of Likal Singh as his general attorney and had authorised him to

get oral family settlement regarding which memorandum dated 07.09.1982 was executed implemented. Accordingly S. Tara Singh had appeared before learned Assistant Collector 2nd grade at the time of sanctioning of mutation no.19603 as attorney of Jugraj Singh and had accepted sanctioning of mutation on the basis of family settlement. Now Jugraj Singh is debarred from challenging the above said mutation. It is further important to mention here that S. Santa Singh, father of Jugraj Singh had filed civil suit no.599 of 1985 which was decided vide judgment and decree dated 24.2.1990 and the factum of family settlement and memorandum dated 07.09.1982 was admitted in the abovesaid judgment and as such the present suit is barred by principle of resjudicata.”

The court after noticing that the material facts are sought to be added which would help the court to decide the controversy effectively allowed the said amendment application.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner contends that the registered power of attorney dated 08.09.1982, allegedly executed by Sh. Jugraj Singh in favour of Sh. Tara singh is not signed by Sh. Jugraj Singh and the aforesaid land is not specifically part of the attorney.

This fact is controverted by the learned counsel representing the

respondent no.1. He submits that the registered power of attorney executed by Sh. Jugraj Singh is not only signed by him but the land in question is also specified particularly therein. At this stage, only an amendment of the written statement has been allowed. The defendant shall be required to prove the facts stated in the written statement.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

The plaintiff shall be entitled to take all the objections before the trial Court.

All the pending miscellaneous applications, if any, are also disposed of.

September 05, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*