

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

**Civil Revision No.2191 of 2021 (O&M)
DATE OF DECISION : 12.09.2022**

Davinder SinghPetitioner

versus

Lakhwinder Singh and AnotherRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gaurav Kalsi, Advocate for
Mr. Harchand Singh Batth, Advocate for the petitioner

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ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the order dated 04.12.2018 passed by the Civil Judge (Junior Division), Amritsar.

The brief facts relevant to the present *lis* are that an ejectment application was filed by one Inder Singh under Section 13 of the East Punjab Rent Restriction Act, 1949 for eviction of the respondent No.1 herein, Lakhwinder Singh, from the demised premises. The ejectment

application was filed by Inder Singh through his General Power of Attorney, Davinder Singh (petitioner herein). Vide order dated 21.09.2010 the eviction of the respondent was ordered from the demised premises. An execution petition was thereafter filed by Inder Singh through his General Power of Attorney, Davinder Singh (petitioner herein). During the pendency of the execution proceedings, the following order was passed on 26.02.2016 :

“File taken up today on an application moved by applicant Kuldeep Singh who stated himself to be the special power of attorney of DH Inder Singh through counsel Sh. Gaurav Kapoor, Advocate, who also filed his power of attorney on behalf of applicant Kuldeep Singh. He also filed copy of cancellation deed vide which the DH has cancelled the earlier General power of attorney given by him in favour of Davinder Singh son of Surjan Singh. The present execution application has been filed by the DH through his attorney Davinder Singh son of Kuldeep Singh. In view of copy of cancellation deed, it is apparent that he has cancelled the said attorney in favour of Davinder Singh and has appointed the applicant Kuldeep Singh as his special power of attorney to proceed further with the present execution application and he is duly represented by his counsel Sh. Gaurav Kapoor, Advocate who has also filed power of attorney on his

behalf. He suffered a separate statement that the DH does not want to proceed further with the present execution application and on his behalf, withdraw the same. In view of the statement made by the DH through his special attorney Kuldeep Singh, the present execution application is ordered to be dismissed as withdrawn. File complete in all respects be consigned to the judicial record room.

Pronounced in open court.”

On 26.04.2017 an application for restoration of the case, which was dismissed as withdrawn, was filed by Davinder Singh (petitioner herein) and the same was dismissed vide zimni order dated 04.12.2018. In the order it was noticed that an application was moved by one Kuldeep Singh, Special Power of Attorney (dated 04.12.2015) holder of Inder Singh. In the said Special Power of Attorney it was specifically mentioned that the General Power of Attorney in favour of Davinder Singh (petitioner herein) was cancelled vide the registered Cancellation Deed dated 09.05.2014. Copy of the registered Cancellation Deed was also placed on the file of the Executing Court. Publication of the cancellation was also done. The Executing Court holding that Davinder Singh (petitioner herein) had no right, dismissed the application. Hence, the present revision petition.

Learned counsel for the petitioner would contend that the petitioner had entered into an agreement to sell with Inder Singh dated 03.10.2007. Pursuant to that, a General Power of Attorney dated

07.12.2007 and a Will dated 07.12.2007 were executed by Inder Singh in favour of the petitioner and, hence, the petitioner had every right to file the present application.

Heard.

In the present case the petitioner lays challenge to the order dated 04.12.2018. Strangely, no challenge has been made to the order dated 26.02.2016. Further, the learned counsel for the petitioner is not in a position to deny that the General Power of Attorney in his favour stood cancelled by a registered document and that a Special Power of Attorney was executed in favour of Kuldeep Singh by Inder Singh. Learned counsel for the petitioner is also not in a position to explain how the present revision petition is maintainable without laying any challenge to the order dated 26.02.2016. The issue as to whether an agreement to sell was executed by Inder Singh in favour of the petitioner or that a Will was executed in favour of the petitioner is not a question which can be gone into by the Executing Court in the present proceedings. The only issue before the Executing Court was regarding the execution of the order dated 21.09.2010 whereby eviction of respondent No.1 was ordered. The cancellation of the power of attorney was not an issue before the Executing Court. In the present case the attorney is attempting to don the robes of the principal despite his attorney having been cancelled.

In view of the above, I do not find any illegality or infirmity in the order passed by the Executing Court. No other argument has been raised.

Dismissed. Pending applications, if any, also stand disposed
off.

12.09.2022
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(ALKA SARIN)
JUDGE

<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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