

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39059-2016 (O&M)

DECIDED ON: 30th SEPTEMBER, 2022

MOHINDER PAL SINGH AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. H.S. Dhindsa, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

Mr. Neeraj Sharma, Advocate
for respondent No.5.

Mr. M.S. Batth, Advocate
for respondent No.7.

SANDEEP MOUDGIL, J (ORAL)

At the very outset, learned counsel for the parties submit that there are disputable points and issues pertaining to the disputed facts which could be tried by the trial Court only.

Learned State counsel has also referred to paras No.5 and 6 of the reply dated 22.11.2019, which reads as under:-

5. *It has been reported by Additional Deputy Commissioner of Police (PBI, OC and Narcotic), Ludhiana that one plot measuring 200 Sq. yards was allotted to Pritam Singh s/o Krishna resident of village Tunga Heri situated at Rajguru Nagar, Ludhiana by Improvement Trust, Ludhiana vide allotment No.5185 dated 24/09/1990. After depositing one installment of this plot Pritam Singh appointed one Gurcharan Singh s/o Pritam Singh as his attorney on 08/07/1993 and Gurcharan Singh attorney on 21/08/1993 sold this plot to Dr. Harjit Kaur w/o Dr. Manjit Singh by accepting a sum of*

Rs.70,000/- and he further executed a power of attorney in favor of Dr. Manjit Singh husband of Dr. Harjit Kaur. It has been further reported that on 29/06/2005 Improvement Trust, Ludhiana vide letter bearing memo No. 1182 asked Pritam Singh to specify regarding the appointment of attorney and Pritam Singh on 14/10/2005 intimated the trust that he never appointed Gurcharan Singh as his attorney in connection with the plot No. 120-ZC measuring 200 Sq. yards situated at Rajguru Nagar, Ludhiana. He further requested the trust authorities to transfer the plot in his name as he is ready to deposit the remaining installments. On 01/06/2006, Pritam Singh alongwith Malkeet Singh, who at that time was serving in Municipal Committee Malerkotla, went to the office of Improvement Trust, Ludhiana. Pritam Singh was duly identified by him at that time, Pritam Singh again intimated the trust authorities that he never appointed any person as his attorney pertaining to this plot. On 24/01/2007, vide letter bearing memo No.797, the trust authorities requested Pritam Singh to deposit the market rate of this property and Shiv Kumar vide a demand draft dated 29/01/2007 gave Rs.2,40,480/- to Pritam Singh from his account No.028401000024769 Indian Overseas Bank, Sector 7, Chandigarh and thereafter, Pritam Singh on 05/02/2007 deposited the amount with the trust authorities and 08/02/2007, he submitted an application for the execution of the sale agreement, which was executed on 09/02/2007. It has further transpired during the course of enquiry that Pritam Singh requested the trust authorities to transfer the ownership of this plot in favor of Meera Sharma and his husband Shiv Kumar, which was transferred in their name vide letter dated 20/02/2007 bearing memo No. 1239.

6. It has been reported by Additional Deputy Commissioner of Police (PBI, OC and Narcotic), Ludhiana that in the meantime, Dr. Hariit Kaur filed a civil suit against Pritam Singh, which was decreed in her favor and the sale deed of this plot was executed in the name of Dr. Harjit Kaur on 09/04/2010 as per the order of the court. Thereafter, Dr. Harjit Kaur filed another suit by arraying the trust as a party, which was decided by the court of Sh. Vikrant Kumar, Civil Judge, Ludhiana on 20/12/2011 and this case was decided in favor of Improvement Trust, Ludhiana and the suit filed by Dr. Harjit Kaur was dismissed. It has transpired during the course of enquiry that this plot was got transferred in the name of respondents No.5 and 6 by Pritam Singh and in this regard, Rs.2,40,480/- was paid by Shiv Kumar from his account to Pritam Singh vide a separate demand draft. Dr Harjit Kaur and others did not pay any amount to Pritam Singh, nor Pritam Singh ever sold this plot to Dr. Harjit Kaur. It has further transferred that on 10/07/2007, Pritam Singh gave an affidavit to Shiv Kumar, which is duly sworn in the presence of Executive Magistrate, Ludhiana, in which he has specifically stated that neither he

*sold this plot to any person, nor he ever gave any power of attorney to any person. He has further stated in this affidavit that he is the original allottee of this plot and has sold this plot to respondent No.5 and 6. It has further transpired that the affidavit dated 09/03/2011 was fraudulently got prepared by Dr. Harjit Kaur and others in order to grab/usurp this plot. The civil suit was decided by Sh. Vikrant Kumar, Civil Judge, Ludhiana on 20/12/2011 in favor of the trust, whereas, Pritam Singh submitted his affidavit on 09/03/2011. It has further transpired that Shiv Kumar and Meera Sharma respondent No.5 and 6 never committed any cheating with Pritam Singh, no they ever connived or met Malkeet Singh resident of village Maholi. The copy of the judgment dated 20/12/2011 passed by the court of Sh. Vikrant Kumar is hereby annexed as Annexure R-I for the perusal of this Hon'ble Court and the true translated copy of the detailed enquiry report submitted by Additional Deputy Commissioner of Police (PBI, OC and Narcotic), Ludhiana is also hereby annexed as **Annexure R-II/T** for the perusal of this Hon'ble Court."*

At the time of issuing of notice of motion on 23.10.2019 certain debatable questions were raised and the Investigating Officer was asked to file reply, in pursuance to which the afore-said reply has been filed.

Since the parties are *ad-idem* that the disputed questions are involved in the present petition, which can be adjudicated by the trial Court only, the trial Court is expected to proceed in the matter expeditiously as out of nine witnesses, four have been examined. This Court is also sanguine of the fact that the matter is pending since 2016 before this Court. It would be, thus, appropriate to bound down the prosecution witnesses by the trial Court to examine them in the next three opportunities at the most.

In view of afore-said terms, the present petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

30th SEPTEMBER, 2022

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