

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

RSA-4342-2019 (O&M)

Date of decision: 09.09.2022

Ajay Sharma

...Petitioner

Versus

Subash Kumar Singla and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunny K Singla, Advocate for the petitioner
 Mr. K.B.Raheja, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

While assailing the correctness of the concurrent findings of fact arrived at by the courts below, the defendant no.2 has filed the present appeal. The plaintiff filed a suit for possession by way of specific performance of the agreement to sell, dated 01.08.2011. Amrik Singh and Malkiat Singh brothers were owners in possession of more than 8 marlas of land. Both were co-owners to the extent of half share each. Amrik Singh authorized his brother Malkiat Singh to sell the property by executing a general power of attorney. Malkiat Singh on the basis of a General Power of Attorney executed an agreement to sell with the plaintiff on 01.08.2011 with respect to entire property referred to above including the share of Amrik Singh. On receipt of the entire sale consideration of Rs.22,00,000/-, the possession was delivered to the plaintiff. Subsequently, Malkiat Singh and his heirs executed the sale deed in favour of the plaintiff with regard to their half share in the said property. Thus, the suit was filed for remaining 50% of the property.

Amrik Singh sold the property in favour of defendant no.2

on 02.04.2013, which prompted the plaintiff to file a suit on 11.04.2013. Defendant no.1 (Amrik Singh) did not contest the suit, however, defendant no.2 while relying upon the General Power of Attorney executed in favour of Amrik Singh and Malkiat Singh claims to be bonafide purchaser. Defendant no.2 did not appear in evidence. He only examined his General Power of Attorney, Manish Kumar. Thus, defendant no.2 failed to prove the facts, which were in his personal knowledge.

It has also come in evidence that defendant no.2 is deed writer's son, who scribed the General Power of Attorney, executed by Amrik Singh, in favour of Malkiat Singh.

Keeping in view the aforesaid facts, no ground to interfere with the concurrent findings of fact is made out.

Hence, dismissed.

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

09.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE