

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. RSA No. 6501 of 2016 (O & M)
Date of decision: 12.10.2022

Vijay SharmaAppellant
Vs.
Suresh Kumar and anotherRespondents

2. RSA No. 6502 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Ashok Sharma and anotherRespondents

3. RSA No. 6503 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Veena Rani and anotherRespondents

4. RSA No. 6504 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Inder Parkash and anotherRespondents

5. RSA No. 6505 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Kuldeep Kaur and anotherRespondents

6. RSA No. 6506 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Sudesh Kumar and anotherRespondents

7. RSA No. 6507 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Ranjna Sharma and anotherRespondents

8. RSA No. 6508 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Simrat Singh and anotherRespondents

9. RSA No. 6509 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Harpal Singh and anotherRespondents

10. RSA No. 6510 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Bhupinder Singh and anotherRespondents

11. RSA No. 6511 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Ashok Kumar and anotherRespondents

12. RSA No. 6512 of 2016 (O & M)

Vijay SharmaAppellant
Vs.
Rajinder Jarora and anotherRespondents

13. RSA No. 6513 of 2016 (O & M)

Vijay SharmaAppellant

Vs.

Ashok Kumar Gupta and anotherRespondents

14. RSA No. 6514 of 2016 (O & M)

Vijay SharmaAppellant

Vs.

Veena Rani and anotherRespondents

15. RSA No. 6515 of 2016 (O & M)

Vijay SharmaAppellant

Vs.

Dharmender Kumar and anotherRespondents

16. RSA No. 6516 of 2016 (O & M)

Vijay SharmaAppellant

Vs.

Khushvinder Sharma and anotherRespondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. V.K. Gupta, Advocate, for the appellant

TRIBHUVAN DAHIYA, J. (Oral)

1. This order shall dispose of the above numbered 16 appeals being filed against the common judgment and decree of the trial Court dated 23.12.2015 and the lower appellate Court dated 11.8.2016. The facts are being taken from RSA No. 6501 of 2016.

2. This is plaintiff's second appeal against the concurrent findings recorded by both the Courts below, i.e., trial Court vide judgment dated

23.12.2015 as well as lower Appellate Court vide judgment dated 11.8.2016, dismissing her suit.

3. The facts in brief are, the appellant/plaintiff (hereinafter referred to as 'the plaintiff') filed a suit for declaration that the impugned sale deed No.4215 dated 5.07.2005 pertaining to a part/plot of the suit property is null and void, and she is owner in possession of agricultural land measuring 6 *kanals* 19 *marlas* situated in Mauja Kansapur, Tehsil Jagdhri, District Yamuna Nagar, on the basis of sale deed No. 1464 dated 21.6.1996. Two revokable general power of attorneys (GPAs) dated 16.3.2005 were executed by the plaintiff with respect to her land in favour of Labh Singh/respondent-defendant no.2 and Smt. Rachna Sharma. The GPAs were got registered in the office of Sub Registrar, Dehradun. It was specifically mentioned in the GPAs that the holders thereof would take no objection certificate (NOC) from the concerned department prior to alienating the land. It was further averred that on 5.4.2008, the plaintiff came to know that her GPA holders executed various sale deeds of the suit land in favour of different parties without authority by bifurcating it in small plots. The details of the sale deeds executed by the GPA holders, which led to filing of 16 separate civil suits and the consequent appeals, are as under:

Sr. No.	Sale Deed No.	Dated	By Whom	In favour of Defendants	Civil Suit No.
1	13936	29.3.2005	Labh Singh	Suresh Kumar	102 of 2011
2	13938	29.3.2005	Labh Singh	Ashok Kumar	446 of 2011
3	4625	6.7.2005	Labh Singh	Veena Rani	812 of 2011
4	4622	12.7.2005	Labh Singh	Inder Parkash	805 of 2011
5	4215	5.7.2005	Labh Singh	Kuldeep Kaur	540 of 2012
6	4354	76.7.2005	Labh Singh	Sudesh Kumar	101 of 2011
7	2697	2.6.2005	Rachna Sharma	Ranjna Sharma	116 of 2011
8	4216	5.7.2005	Labh Singh	Simrat Singh	808 of 2011
9	4353	6.7.2005	Labh Singh	Harpal Singh	806 of 2013
10	1426	6.5.2005	Rachna Sharma	Bhupinder Singh	807 of 2011
11	13570	18.3.2005	Labh Singh	Ashok Kumar	810 of 2011
12	4201	5.7.2005	Rachna Sharma	Rajinder	811 of 2011

13	4203	5.7.2005	Rachna Sharma	Ashok	543 of 2011
14	4361	6.7.2005	Rachna Sharma	Veena Rani	809 of 2011
15	13939	29.3.2005	Labh Singh	Dharmender Kumar	541 of 2012
16	4202	5.7.2005	Rachna Sharma	Khushvinder Sharma	804 of 2013

4. The defendants contested the suit by stating that they are *bona fide* purchasers of the land by virtue of respective sale deeds, as afore mentioned, for valuation consideration, and possession of the land was also handed over to them at the spot. It was also stated that the sale deeds in their favour were executed by the GPA holders, who were competent to do that.

5. On the pleadings of the parties, the following issues were settled:

1. Whether defendant no.2 had executed the impugned sale deed in favour of defendant no.1 beyond the power given by the plaintiff in General Power of Attorney dated 16.3.2005 and the said sale deed is illegal, null and void and not binding upon the plaintiff? OPP
2. If Issue No.1 is proved, whether plaintiff is entitled to the relief of declaration along with consequential relief of permanent injunction as prayed for? OPP
3. Whether the plaintiff has no locus standi to file and maintain the present suit? OPD (Defendant no.1 in all the suits).
4. Whether the instant suit is hopelessly time barred? OPD (Defendant no.1 in all the suits).
5. Whether the instant suit is not maintainable against defendant no.1 because he is bona fide purchaser of the plot in dispute? OPD (Defendant no.1 in all the suits).
6. Whether the plaintiff has no cause of action to file the instant suit against defendant no.1? OPD (Defendant no.1 in all the suits).
7. Relief.

6. Upon leading evidence, the trial Court decided Issues no.1 and 2 against the plaintiff and dismissed the suits. Issues no.3 to 6 were not pressed.

The appeals filed against the same before the lower Appellate Court were also

dismissed.

7. Learned counsel for the plaintiff has argued that the GPA holders have executed sale deeds in violation of terms of the general power of attorneys, i.e., in violation of the authority delegated to them. He submits that they had no authority to divide the land into small plots and transfer it further by execution of sale deeds in favour of the defendants. It could only be done after obtaining NOC from the concerned department, which was not obtained. Besides, no consideration for the alleged sale(s) was received by the plaintiff. Therefore, the sale deeds are illegal and required to be declared null and void. It has also been argued by learned counsel that the sale deeds in favour of the defendants were a result of fraud having been committed by the GPA holders in collusion with the defendants/vendees. On coming to know about this, the GPAs were revoked by the plaintiff on 28.4.2008.

8. A perusal of the judgments of the Courts below establishes that the GPAs, Ex.P4 & Ex.P5/Ex.D1 & Ex.D2, in question were executed by the plaintiff on 16.3.2005 and the same were revoked subsequently on 28.4.2008, vide cancellation deed Ex.P7. The sale deeds in favour of the defendants were executed by the GPA holders between 18.3.2005 to 12.7.2005, exhibited on record as Ex.P13 to Ex.P29. It is, therefore, apparent that at the time of execution of sale deeds, the GPA holders had the authority to do so. It is provided in the terms of the GPAs that the holders thereof have the right to sell the property in dispute or a part thereof, receive money, issue receipt and get the sale agreement registered. It is duly recorded in the sale deeds that consideration of sale was paid to the GPA holders. Consequently, there is nothing on record to establish that the GPA holders acted beyond their delegated authority while executing the sale deeds in question.

9. The argument raised by learned counsel that the plaintiff has not received any consideration of sale pursuant to the sale deeds and the same being without consideration are liable to be declared illegal, is not acceptable. As per settled proposition of law, a GPA holder acts as a donee of executant of the power of attorney; his acts bind the executant/donor of the power and are taken to have been performed by the latter. In case consideration has been paid to the GPA holders, as in the instant case, it is deemed to have been paid to the plaintiff/executant. The sale deeds in question, therefore, cannot be said to have been executed without consideration.

10. Reference can be made to the law laid down by the Supreme Court to that effect in case of *Suraj Lamp and Industries Pvt. Ltd. v. State of Haryana*, 2012 (1) SCC 656; Para 13 of the judgment reads as under:

13. A power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property. The power of attorney is creation of an agency whereby the grantor authorizes the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him (see [section 1A](#) and [section 2](#) of the Powers of Attorney Act, 1882). It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. Even an irrevocable attorney does not have the effect of transferring title to the grantee.

11. The defendants are *bona fide* purchasers of their respective pieces of land. These sale deeds cannot be said to be result of any collusion or fraud on the part of the defendants and the GPA holders. There is no evidence on record to establish any of the ingredients of fraud against them. Further, revocation of the GPAs by the plaintiff on 28.4.2008, i.e., subsequent to execution of sale deeds, cannot affect the rights of the defendants/vendees, who had purchased the land for lawful consideration during validity of the GPAs. Merely because

NOC was not obtained by the GPA holders from the concerned department before execution of the sale deeds in question, it is no ground to declare the same as null and void. This act, at best, is an irregularity to be looked into by the department concerned. It does not give any right to the plaintiff to seek the declaration.

12. It also needs to be noted that the sale deeds in question were executed between March to July 2005, and it took the plaintiff almost three years to revoke the same, i.e., on 28.4.2008. Still further, the civil suits seeking a declaration against the sale deeds were filed in the year 2012, i.e., after almost seven years of their execution. The sale deeds in question having been duly registered, it cannot be accepted that the same were not to the plaintiff's knowledge. Therefore, no exception can be taken to findings of the lower Appellate Court that the claim/suit filed by the plaintiff is barred by limitation.

13. In view of the aforesaid, there is no ground to interfere with the well reasoned judgments of the Courts below which do not suffer from any infirmity or illegality. No substantial question of law arises for consideration.

14. Consequently, all the appeals are dismissed.

15. Since the main appeals have been dismissed, pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

16. A copy of the judgment be placed on the files of connected appeals.

(TRIBHUVAN DAHIYA)
JUDGE

12.10.2022

Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No