

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

CR-2477-2017(O&M)

Date of decision:-3.2.2023

Kuldeep Singh

...Petitioner

Versus

Satyender Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rajiv Sharma, Advocate
for the petitioner.

Mr.Amit Prashar, Advocate
for the respondent.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 17.3.2017 passed by Civil Judge (Jr.Divn.), Faridabad vide which she had dismissed an application under Order 7 Rule 11 CPC filed by the defendant seeking rejection of the plaint.

2. Briefly stated, facts of the case are that plaintiff Satyendra Singh had brought a suit through a special power of attorney Sharda Rani for recovery against defendant No.Kuldeep Singh on the basis of power of attorney dated 14.8.2007.

3. Notice of the suit was given to the defendant, who put in appearance and filed an application under Order 7 Rule 11 CPC seeking rejection of the plaint. According to the defendant as a matter of fact that power of attorney had been given by the plaintiff with respect to immovable property only and it was cancelled on 5.5.2008, despite that

the attorney had filed a suit on behalf of the plaintiff, which was not maintainable, as such the plaint deserved to be rejected.

4. That application was resisted by the plaintiff. The trial Court of Civil Judge(Jr.Divn.), Faridabad vide the impugned order dated 17.3.2017 had dismissed the application, leaving the defendant aggrieved, who filed the present revision petition before this Court, notice of which was given to the respondent/plaintiff, who put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition.

6. As per the case of the defendant, the plaintiff had filed a suit for recovery through her attorney Smt.Sharda Rani, who is none-else but his real mother, on the basis of special power of attorney, which was with regard to management of immovable property belonging to the plaintiff only and a suit for recovery could not have been filed on strength of that power of attorney.

7. However, a perusal of the power of attorney in question Annexure P1 goes to show that though the plaintiff had executed the power of attorney mainly relating to his immovable properties in District Faridabad but then by executing subsequent ratification deed dated 18.10.2016, the plaintiff had ratified all the acts so done by his mother as her attorney. Copy of that ratification deed has been placed on record as Annexure R1. Therefore, there is no occasion to reject the plaint in view of Order 7 Rule 11 CPC. The application was rightly dismissed by the trial Court and no fault can be found with the same. No reason is found to

upset the said order by exercising revision jurisdiction.

8. From the report of the trial Court, it comes out that the defendant has been filing successive applications under Order 7 Rule 11 CPC taking different objections at different times and the trial Court has been entertaining such applications. The trial Court should refrain from entertaining successive applications filed under Order 7 Rule 11 CPC in such a manner.

9. Finding no merit in the revision petition, the same stands dismissed.

Resultantly, the interim order dated 6.4.2017 staying the proceedings before the trial Court comes to an end.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

3.2.2023

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No