

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

149

2023:PHHC:135824

CR-1445-2023

Date of decision: 18.10.2023

HARMANJOT SINGH AND ANR.

..Petitioners

Versus

MANJIT KAUR @ SEONA KAUR AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioners.

Mr. H.S. Jalal, Advocate for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. Smt. Manjeet Kaur has filed a suit for grant of permanent injunction and possession. The suit has been filed through the General Power of Attorney Sh. Gurmeet Singh. The plaintiff claims to be a widow of late Sh. Darbara Singh. She has filed a suit against the defendants, who claim to be a widow and children of late Sh. Darbara Singh. During the pendency of the suit, the defendants filed an application to direct the plaintiff to appear in person i.e. Smt. Manjeet Kaur. It was alleged that Smt. Manjeet Kaur was not of sound mind and therefore, she could not execute the General Power of Attorney. The trial Court has dismissed the application while observing that the General Power of Attorney can appear on behalf of the plaintiff.

2. The correctness of the aforesaid order has been challenged in this revision petition.

3. The learned counsel representing the petitioner while relying upon the judgment passed in **Janki Vashdeo Bhojwani Vs. Indusind Bank Ltd, 2005(2) SCC 217**, submits that the plaintiff should have been directed to appear in person.

4. This Court has considered the submissions of the learned counsel representing the parties.

5. In the judgment passed in *Janki Vashdeo Bhojwani's case (supra)*, the Court held that if the General Power of Attorney holder appears, he cannot depose about the facts, which are in personal knowledge of the plaintiff. Thus, if the plaintiff fails to appear, the Court is entitled to draw adverse inference. In the aforesaid judgment, it was nowhere laid down that the plaintiff must be forced to be present in the Court in a civil suit.

6. Moreover, as and when the case comes up for final disposal, the Court shall be entitled to draw inference based on Section 114 of the Indian Evidence Act, 1872.

7. With these observations, the revision petition is dismissed.

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

October 18th, 2023

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*