

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

CR-499-2023 (O&M)

Date of decision: 27.02.2024

Deepak Bhardwaj

....Petitioner

Versus

Mahender Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajesh Arora, Advocate for the petitioner

Mr. Sanjay Verma and
Mr. Parsant, Advocates for respondent no.2

ANIL KSHETARPAL, J (Oral)

1. The dispute is with regard to the grant of temporary injunction with respect to a plot measuring 64 square yards located in Gurugram.

2. In order to comprehend the issue involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The petitioner -Sh.Deepak Bhardwaj was owner of the plot measuring 127 square yards. On 11.07.2016, he appointed Sh.Bhupender Sharma as his general power of attorney. On the basis of the aforesaid General Power of Attorney on 1st June, 2017 Sh.Bhupender Sharma sold half share of the plot in favour of Sh.Satyapal against Rs.23,10,000/-. Sh. Deepak Bhardwaj upon realising that Sh.Bhupender Sharma has tried to squander away the property, cancelled the general power of attorney on 12th September, 2017. Sh. Mahender Kumar claims that he

has an agreement to sell in his favour dated 26 July, 2017 with respect to the remaining half share of the property against the total sale consideration of Rs. 9.5 lacs which was allegedly executed by Sh.Bhupender Sharma on behalf of Sh.Deepak Bhardwaj. Sh. Mahender Kumar filed a civil suit for grant of decree of permanent injunction. Sh. Deepak Bhardwaj filed a counter claim. The trial court dismissed the plaintiff's application, however allowed the application filed by the defendant for grant of temporary injunction. It is the case of Sh.Deepak Bhardwaj that the agreement to sell dated 26 July, 2017 has been ante dated in order to deprive him of the property.

4. The First Appellate Court has reversed the order passed by the trial court and granted injunction in favour of Sh.Mahender Kumar on the basis of the agreement to sell dated 26 July, 2017. The correctness of the aforesaid order has been challenged in this revision petition.

5. Sh.Mahender Kumar has chosen not to contest the revision petition, though, he was served with the notice. Sh.Bhupender Sharma has come forward to contest the case.

6. Learned counsel representing Sh.Deepak Bhardwaj contends that apparently the agreement to sell dated 26 July, 2017, has been executed ante dated in order to deprive the petitioner of his rights. He submits that agreement to sell with regard to half share of the plot for a sum of Rs 9,50,000/- is the result of collusion because Sh.Bhupender Sharma sold the remaining half share for Rs.23,10,000/- on 1st June,

2017. He further submits that the agreement to sell has been scribed on a plain paper with a special adhesive stamp. He further submits that the plot in question continues to be in possession of the petitioner.

7. On the other hand, the learned counsel representing the respondents submits that the agreement to sell was entered into before the cancellation of the power of attorney and the original sale deed has been handed over to Sh.Mahender Kumar. He submits that the boundary wall of the plot has been constructed by Sh.Mahender Kumar.

8. This Court has considered the submissions made by the learned counsel representing the parties.

9. Learned counsel representing the respondents has been asked to explain the reason as to why he executed the agreement to sell of the remaining half share in favour of Sh.Mahender Kumar for a sum of Rs.9,50,000/- particularly when he sold the first half for Rs.23,10,000/-. However, there was no explanation. Furthermore, it is evident from perusal of the layout plan that the location of the plot measuring 63 square yards, which has been sold for Rs.23,10,000/- is similar to the location of the plot measuring 64 square yards, which is alleged to have been agreed to have been sold in favour of Sh.Mahender Kumar. The agreement to sell does not appear to have been scribed by any professional scribe.

10. The correctness of the agreement to sell is yet to be proved. The petitioner claims that the plot was bounded by him.

11. Keeping in view the aforesaid facts, the order passed by the First Appellate Court is modified. The parties are directed to maintain status quo with regard to possession. They are also restrained from carrying out any further construction. The trial court is requested to decide the suit as expeditiously as possible.
12. Disposed of.
13. All the pending miscellaneous applications, if any, are also disposed of.

27.02.2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No