



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

304

CR-1235-2019 (O&M)

Date of Decision: 14.11.2024

MANJU DEVI

.... Petitioner

VERSUS

JAGDISH (SINCE DECEASED) THR LRS AND ORS Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhir Aggarwal, Advocate for the petitioner.

Mr. Aditya Jain, Advocate and
Mr. Rahul Vohra, Advocate for respondents No.1 to 6.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 17.01.2019 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Gurugram whereby the application filed by defendant No.2-petitioner herein under Order 7 Rule 11 CPC for rejection of the plaint was dismissed.

2. Brief facts relevant to the present *lis* are that plaintiff-respondents No.1 to 6 herein filed a suit for declaration with consequential relief of possession. It was averred in the plaint that the plaintiff-respondents No.1 to 6 were owners and recorded as *dholidar* of agricultural land measuring 2 Kanal 16 Marla out of land comprised in Khewat No.219 Khata No.249 Rect. No.7 Killa No.12(1-9), 13/1(1-12), 13/3(0-0), 14/1/1(0-5), 18/2/1(0-3), 19/1(3-4), 20/1(7-16), 20/3(0-2), 21/2/2(2-11), 22/1(3-16), 19/3(0-18), 19/4(1-4), 26/2(1-3) area 26 Kanal 6 Marla situated in Mauza

Medawas, Tehsil and District Gurgaon. It was further averred that defendant No.1 (respondent No.7 herein) in collusion with his father, namely, Mata Din got signatures of plaintiff-respondents No.1 to 6 and those of their sisters and mother on blank papers and on the pretext that he would get a temple constructed on the suit land, defendant No.1 (respondent No.7) got a general power of attorney executed in his favour. It was further averred that a notice was served upon defendant No.1 (respondent No.7) on 23.04.2010 asking him as to what document had been prepared by him using the signatures of plaintiff-respondents No.1 to 6 on blank papers. It was further averred in the plaint that the general power of attorney (GPA) was got cancelled on 20.10.2015 and that the sale deed in favour of defendant No.2-petitioner was executed on 21.10.2015. Thus, the challenge to the sale deed being a fraudulent document. An application under Order 7 Rule 11 CPC was filed by defendant No.2-petitioner on the ground that *ad valorem* court fee had not been affixed on the suit. Reply was filed to the said application. Vide the impugned order the application was dismissed. Hence, the present revision petition by defendant No.2-petitioner.

3. Learned counsel for the defendant No.2-petitioner would contend that *Dholi* property was sold through the general power of attorney (GPA) vide sale deed dated 21.10.2015. It is further the contention that though the general power of attorney was cancelled on 20.10.2015, however, intimation qua the same was given to defendant No.2-petitioner on 29.10.2015. Learned counsel would further contend that since the plaintiff-

respondents No.1 to 6 have sought for declaration and cancellation of the sale deed, they would be liable to pay *ad valorem* court fee.

4. *Per contra*, learned counsel for plaintiff-respondents No.1 to 6 would contend that in the present case in the year 2010 itself a notice was issued to the general power of attorney holder asking him as to what document had been got executed by him and as to why the temple had not been built as signatures of plaintiff-respondents No.1 to 6 were taken on blank papers for construction of the temple. It is further the contention that the general power of attorney stood cancelled on 20.10.2015 by a registered cancellation deed and hence the general power of attorney holder had no power to sell the property on 21.10.2015.

5. Heard.

6. In the present case the ground for cancellation of the sale deed is that the same is a fraudulent transaction inasmuch as the signature of plaintiff-respondents No.1 to 6 were taken on blank papers for the construction of a temple on *dholi* land and were used to prepare a general power of attorney. Since the temple was not constructed a notice was issued to defendant No.1 (respondent No7), namely, Suresh asking him as to what document had been got prepared by him using the signatures of plaintiff-respondents No.1 to 6 on blank piece of paper as also asking him as to why the temple had not been constructed. Subsequently the general power of attorney itself was got cancelled on 20.10.2015. The sale deed was executed by the general power of attorney holder on 21.10.2015 in favour of defendant No.2-petitioner whereas the general power of attorney was itself

got cancelled through a registered cancellation deed on 20.10.2015 i.e. before the alleged execution of the sale deed and hence there is no illegality in the impugned order passed by the Trial Court.

7. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

8. It is made clear that any observation made herein shall not be taken as an expression of opinion on the merits of the case.

14.11.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No