

2024:PHHC:069380



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

Date of Decision : 16.05.2024

113

RSA-1569-2022 (O&M)

KARAJWINDER SINGH AND ANR

.... Appellants

VERSUS

SATINDER KAUR AND OTHERS

.... Respondents

113-A

RSA-2332-2022 (O&M)

KARAJWINDER SINGH AND ANR

.... Appellants

VERSUS

NAIB SINGH (DECEASED) THR LRS AND OTHERS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gurcharan Dass, Advocate for the appellants
in both the RSAs.

Mr. Puneet Jindal, Senior Advocate with
Mr. Arshnoor Singh, Advocate for caveator-respondent No.1
in both the RSAs.

ALKA SARIN, J. (ORAL)

1. The present order of mine shall dispose off the above noted two appeals being **RSA-1569-2022** and **RSA-2332-2022**, both preferred by Karajwinder Singh and Rajinder Kaur, impugning the judgment and decree dated 23.02.2022 passed by the learned Additional District Judge (NRI Cases), Jalandhar.

2. In **RSA-1569-2022** an application being **CM-4930-C-2022** has been filed for making good the court fee. Court fees has already been made



good. Hence, the application is rendered infructuous. Another application being **CM-4931-C-2022** has been filed for condonation of delay of 44 days in refiling the present appeal. For the reasons stated in the application, the same is allowed. Delay of 44 days in refiling the appeal is condoned. Similarly, in **RSA-2332-2022** an application being **CM-8080-C-2022** has been filed for making good the court fee. Court fees has already been made good. Hence, the application is rendered infructuous. Another application being **CM-8081-C-2022** has been filed for condonation of delay of 152 days in refiling the present appeal. For the reasons stated in the application, the same is allowed. Delay of 152 days in refiling the appeal is condoned

3. The brief facts relevant to the present *lis* are that one Naib Singh was the original owner of the suit land. It was the case set up by the plaintiffs, namely, Karajwinder Singh and Rajinder Kaur in Civil Suit being CS-7678-2012 that on 10.02.2011 Naib Singh executed a General Power of Attorney (GPA) in favour of three persons, namely, Gurwinder Singh, Jagjit Singh and Harinder Singh. The said GPA was registered on 01.03.2011 at Gurdaspur. It is apt to note that in the copy of the GPA typed on the computer, it was stated that Naib Singh was a resident of Jalandhar, however, by hand it was stated that now resident of Gurdaspur. Subsequently, on 07.03.2011 Gurwinder Singh (one of the GPA holders of Naib Singh) executed Special Power of Attorneys (SPAs) in favour of Deepak Uppal and one Jagroop Singh. On 18.03.2011 Deepak Uppal



executed a sale deed in favour of Karajwinder Singh and Rajinder Kaur (plaintiffs in Civil Suit No.7678 of 2012) qua part of the suit property. Thereafter, on 22.03.2011 another sale deed was executed by Jagroop Singh (on the basis of SPA) in favour of Karajwinder Singh and Rajinder Kaur (plaintiffs in Civil Suit No.7678 of 2012). It is to be noted that Rajinder Kaur is none other than the mother of the GPA holder Gurwinder Singh. On 22.04.2011 Naib Singh got a FIR registered qua the forged GPAs. A second FIR was registered on 06.08.2011 against the persons who have got the GPAs executed as well as the officials of the Gurdaspur Sub-Registrar's Office. On 09.11.2011 Naib Singh died. On 09.03.2012 a civil suit being CS-54167-2013 was filed by the legal representatives of Naib Singh for declaration to the effect that they were the owners in possession of land comprised in Khewat No.51, 131, 163; Khatoni No.69, 170, 207; Khasra No.18//2(7-2), 8(6-0), 13/1(1-10), 18//1/3(0-18), 9/1(5-16), 10/1(1-10), 18//3(5-0) as per Jamabandi for the year 2007-08 of Village Nangal Karar Khan, Hadbast No.229, Tehsil and District Jalandhar and land comprised in Khewat No.97; Khatoni No.145; Khasra No.288(2-16), Khewat No.213; Khatoni No.315; Khasra No.289(8-0) as per Jamabandi for the year 2006-07 of Village Kot Kalan, Hadbast No.226, Tehsil and District Jalandhar. A second suit being Civil Suit No.7678 of 2012 was filed by Karajwinder Singh and Rajinder Kaur on 18.04.2012 for declaration to the effect that they were exclusive legal and lawful owners in possession of lands bearing



Khasra No.18/2(7-2), 8(6-0), 13/1(1-10), 18/1/3(0-18), 9/1(5-16), 10/1(1-10), 18/3(5-0) total area 27 Kanals 16 Marlas as per Jamabandi for the year 2007-08 situated at Village Nangal Karar Khan, Tehsil and District Jalandhar and land in Hadbast No.226, Khewat Khatauni No.97/145, 213/315 with Khasra No.288(2-16), 289(8-0) total area 1 Acre 1 Kanal and 4 Marlas as per Jamabandi for the year 2006-07 situated at Village Kot Kalan, Tehsil and District Jalandhar. Both the said suits were consolidated. Evidence was led in Civil Suit No.7678-2012 filed by Karajwinder Singh and Rajinder Kaur. Vide judgment and decree dated 11.05.2018 passed by the Trial Court, civil suit being CS-7678-2012 filed by Karajwinder Singh and Rajinder Kaur was decreed and civil suit being CS-54167-2013 filed by the legal representatives of deceased Naib Singh was dismissed. Aggrieved by the same an appeal was preferred by Ramandeep Singh against the decision in Civil Suit No.7678-2012 filed by Karajwinder Singh and Rajinder Kaur. A second appeal was preferred by all the plaintiffs i.e. the LR's of Naib Singh in civil suit in CS-54167-2013. In appeal, the First Appellate Court vide judgment and decree dated 23.02.2022 reversed the judgment passed by the Trial Court. The Civil Suit No.7678-2012 filed by Karajwinder Singh and Rajinder Kaur was dismissed and the suit of the LR's of Naib Singh i.e. CS-54167-2013 was decreed. Hence, the present two regular second appeals by Karajwinder Singh and Rajinder Kaur.



4. For the sake of convenience, Karajwinder Singh and Rajinder Kaur are being referred to as the plaintiff-appellants and the legal representatives of deceased Naib Singh, namely, Satinder Kaur, Amandeep Kaur and Ramandeep Singh are being referred to as the defendant-respondents hereinafter.

5. Learned counsel for the plaintiff-appellants would contend that the sale deeds were duly proved. PW-1, namely, Paramjit Singh, who was the Junior Assistant from the Office of Sub-Registrar, Jalandhar appeared and brought the record of sale deed dated 21.03.2011 executed by Deepak Uppal in favour of Karajwinder Singh and Rajinder Kaur as Ex.P-1. He also brought sale deed dated 22.03.2011 executed Jagroop Singh in favour of Karajwinder Singh and Rajinder Kaur Ex.P-2. It is further the contention that the attesting witness of the sale deed, namely, Sukhdev Singh appeared as PW-3. Learned counsel for the plaintiff-appellants would further contend that the General Power of Attorney dated 10.02.2011 and the Special Power Attorneys dated 07.03.2011 were taken into custody by the Police in the criminal case and hence the same were not produced before the Court, however, copies of the same were available.

6. Per contra, learned senior counsel appearing on behalf of caveator-respondent No.1 would contend that in the present case Naib Singh was a resident of Jalandhar, however, strangely, the registration of the General Power of Attorney was done at Gurdaspur. It is further the



contention that neither the General Power of Attorney (GPA) dated 10.02.2011 nor the Special Power of Attorneys (SPAs) dated 07.03.2011 were ever exhibited before the Courts below. Infact, the First Appellate Court has specifically noticed that both the GPA dated 10.02.2011 and SPAs dated 07.03.2011 did not see the light of the day. It is further the contention that even the witnesses of the said GPA and SPAs were not examined. Learned senior counsel has further pointed out that there is not an iota of evidence that any consideration had passed. Infact, it had been stated by the executants of the sale deeds that the sale consideration for land measuring 27 Kanals 16 Marlas situated in Village Nangal Karar Khan, Tehsil and District Jalandhar sold vide sale deed dated 18.03.2011 executed by Deepak Uppal was ₹90,40,000 and land measuring 1 Acre 1 Kanal 4 Marlas situated in Village Kot Kalan, Tehsil and District Jalandhar sold vide sale deed dated 22.03.2011 executed by Jagroop Singh was ₹1,43,75,000. However, nothing is on the record to show that the said amount was ever paid to Naib Singh.

7. Heard.

8. In the present case the original owner of two parcels of land - one measuring 1 Acre 1 Kanal 4 Marlas situated in Village Kot Kalan, Tehsil and District Jalandhar and another measuring 27 Kanals 16 Marlas situated in Village Nangal Karar Khan, Tehsil and District Jalandhar - were admittedly owned by Naib Singh. A case was set up by the plaintiff-appellants herein that vide a General Power of Attorney executed by Naib



Singh in favour of Gurwinder Singh, Jagjit Singh and Harinder Singh, power was given to deal with the property of Naib Singh. The said GPA was registered on 01.03.2011. It has been noticed by the First Appellate Court that the power of attorney, a photocopy of which was available on the Court file, was a computer typed General Power of Attorney and the address of Naib Singh was mentioned as that of Village Kot Kalan, Tehsil and District Jalandhar. However, thereafter by hand it was mentioned that he was now a resident of Village Shehjada Kalan, District Gurdaspur. It was held that there was no evidence that Naib Singh was ever residing at Village Shehjada Kalan, District Gurdaspur. It was further observed that no resident of District Gurdaspur attested the power of attorney as a witness. Further still, the sale deed dated 18.03.2011 executed by Deepak Uppal and sale deed dated 22.03.2011 executed by Jagroop Singh were on the basis of Special Power of Attorneys dated 07.03.2011 which in turn derived the power from a General Power of Attorney in favour of Gurwinder Singh allegedly executed by Naib Singh on 10.02.2011. Neither the General Power of Attorney dated 10.02.2011 executed by Naib Singh nor the Special Power of Attorneys dated 07.03.2011 alleged to have been executed by Gurwinder Singh in favour of Deepak Uppal and Jagroop Singh ever saw the light of the day. There is also not an iota of evidence that the consideration amount of ₹90,40,000 and ₹1,43,75,000 was paid to Naib Singh. Further still, the Trial Court while decreeing the suit of the plaintiff-appellants cast the entire onus



of producing the GPA on the defendant-respondents herein. The same is totally contrary to all the settled principles of law.

9. In **RSA-2332-2022** another application being **CM-12037-C-2023** has been filed under Order 41 Rule 27 read with Section 151 CPC for leading additional evidence.

The evidence now sort be led by way of additional evidence are the proceedings pertaining to the criminal case as well as the cancellation reports. This Court has considered the said documents. The same do not further the case of the plaintiff-appellants in any way. It is trite that decisions of criminal courts are not binding on the civil court. Before this Court though an application for additional evidence has been filed for placing on record the proceedings in the criminal case, the GPA and the SPAs have still not seen the light of the day. The said application is dismissed.

10. In view of the above, no question of law much less substantial question of law arises for determination in the present case. The judgment and decree of the First Appellate Court is sound and well reasoned and calls for no interference by this Court. Both the present appeals, being devoid of any merits, are accordingly dismissed. Pending applications, if any, also stand disposed off.

16.05.2024
Aman Jain

(ALKA SARIN)
JUDGE

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