

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CWP-27289-2017

Date of decision: 08.02.2024

SHYAM LAL GARG

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Narinder Singh Behgal, Asstt. A.G. Haryana.

Mr. Aarav Gupta, Advocate with
Mr. Sahil Sabherwal, Advocate
for respondent No.4.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 27.09.2013 (Annexure P-1) passed under Section 68 (2) of the Indian Registration Act, 1908 by respondent No.2 -Deputy Commissioner-cum-Registrar, Ambala whereby he has cancelled 412 sale deeds registered in the office of Sub Registrar, Ambala based on general power of attorney executed by Sub Registrar, Ambala.

Learned counsel appearing on behalf of the petitioner contends that the issue with respect to the jurisdiction and powers of the Registrar to cancel a sale deed under Section 68 (2) of the Indian Registration Act, 1908 came for consideration before this Court in

CWP-2550-2014. Vide its judgment dated 16.11.2016 in the matter of ***“Kuldeep Kaur Chopra and others versus State of Haryana and others”***, this Court held that the Deputy Commissioner did not have any power under Section 68(2) of the Indian Registration Act, 1908 to cancel a sale deed since the said power was only in respect of Superintendence and Control over the Sub-Registrar administratively and the same is not an appellate authority. He submits that the issue is thus squarely covered in favour of the petitioner.

Counsel for the respondent No.4, however, contends that the above said judgment would not be applicable to the facts of the present case since in the above said case, due execution and registration of the sale deed on the strength of a valid and legal general Power of Attorney was undisputed. It is contended that as against the above, the facts of present case are at variance. The sale deed appended with the present writ petition as Annexure P-2 is stated to have been executed on behalf of the vendor by respondent No.4 and counsel appearing on behalf of respondent No.4 submits that he had never got any sale deed executed, hence, even the sale deed is an act of fraud by the petitioner. The petitioner thus cannot claim to reap benefits of the fraudulently registered documents and compel the true owner to defend himself for fraud committed by the petitioner. The title should rather be established by the petitioner.

Taking into consideration that disputed questions of fact as to whether the sale deed was an act of fraud or not would arise in the present case which cannot be gone into by this Court in a writ jurisdiction.

Therefore, without disputing the ratio of law laid down by this Court in its judgement of *Kuldeep Kaur Chopra (supra)*, the present writ petition is disposed of at the stage, with liberty to the petitioner to take recourse to an appropriate alternative remedy and to approach the Civil Court, if so advised for seeking redressal of his grievance.

Needless to mention that in the event of petitioner preferring any other alternative remedy, the period during which the proceedings have remained pending before this Court shall be taken into consideration while computing limitation.

Disposed of in terms of the above.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 08, 2024

Vishal sharma

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