



RSA-2116-1989 (O&M)

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

RSA-2116-1989 (O&M)

Judgment Reserved on 12.08.2025

Judgment pronounced on 08.09.2025

KARTAR SINGH (DECEASED) THROUGH LRS ... APPELLANTS**VERSUS****HARDIAL SINGH (DECEASED) THROUGH LRS & ORS.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. S.K. Garg Narwana, Advocate, Senior Advocate with
Mr. Vaibhav Sehgal, Advocate and
Mr. Sourabh Sheoran, Advocate
for the appellant.

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate and
Ms. Manleen Kaur, Advocate
for respondent Nos. 1 and 2.

PARMOD GOYAL, J.

Unsuccessful plaintiff has preferred present second appeal being aggrieved by dismissal of his suit for possession by Learned Sub Judge 1st class, Jagraon vide judgement and decree dated 04.10.1987 and also by dismissal of his first appeal vide judgement decree dated 04.05.1989 passed by the Ld. Additional District Judge, Ludhiana.

2. Plaintiff vide his suit for possession had asserted and sought decree for possession of land measuring 161 kanal 5 Marla situated in village Shabazpur, Patti Multani, Tehsil Jagraon fully detailed in headnote of the plaint and claimed to be owner of the said property and prayed for setting aside agreements to sell



dated 09.09.1982 and 13.09.1982 allegedly executed by defendant No. 3 in favour of defendant No. 1 and 2 respectively as same were forged & fictitious documents. Appellant-Plaintiff vide his suit had asserted that he is owner of suit land. That he was married to sister of defendant No. 3 and daughter of defendant no. 5. and had appointed defendants No. 3 and 5 as his general Power of Attorney by executing two separate General Power of Attorneys dated 20.03.1965 and 15.12.1980 respectively. That wife of plaintiff had died on 11.08.1981. That after death of wife of plaintiff the relation between the plaintiff and defendants No. 3 and 5 had extinguished. However, defendant No. 3 fraudulently executed agreement to sell dated 09.09.1982 and 13.09.1982 in favour of defendant No. 1 and 2 taking undue benefit of his being attorney of plaintiff. The agreements were executed in order to deprive the plaintiff from his right over the suit land. Agreements were stated to be false, fabricated and fictitious documents without consideration as plaintiff had revoked the said power of attorneys dated 20.03.1965 and 15.12.1980 on 23.01.1984 and 04.10.1982 respectively by way of execution of revocation deeds. It was pleaded that notice of revocation deed was duly served upon defendant No. 3 and 5. Plaintiff further asserted that defendant Nos. 1 and 2 are residing at Panipat and Patiala respectively, so they have no reasons to purchase property at Jagraon and cultivate it. That defendants No. 3 and 5 keeping in view their strained relationship with plaintiff executed agreement to sell in favour of defendant No. 1 and 2 only to grab the property of the plaintiff. It was asserted that by forging revenue record the defendants also succeeded in taking illegal possession of the suit land about 2 months back. That plaintiff had appointed another attorney namely Harchand Singh on 21.12.1982 as he was unable to pursue his suit because he was residing in Hong Kong. Sister of Harchand Singh attorney was married to plaintiff after death of his previous wife. That since the defendants had refused to



return the land back, plaintiff had no other option except to file the suit.

3. Defendants in their detailed written statement admitted ownership of the plaintiff over the suit property, relationship of defendant No. 3 and 5 with plaintiff and fact that the plaintiff had executed two power of attorneys in favour of defendant No. 3 and 5. Defendants had also admitted fact regarding death of wife of plaintiff as was asserted by plaintiff who was sister and daughter of defendants Nos. 3 & 5. However, other allegations levied by plaintiff were specifically denied by defendants. It was asserted that agreement to sell were executed with defendant No. 1 and 2 in good faith for valuable consideration and in accordance with the instructions of plaintiff. That consideration received out of agreements was duly deposited in the account of plaintiff as per his directions. Plea of the plaintiff that agreement dated 09.09.1982 and 13.09.1982 are fictitious documents were denied. It was rather pleaded that both the documents i.e. agreements to sell were executed in accordance with law and as per instructions of plaintiff. That relationship between defendants No. 3 & 5 and plaintiff only became strained after remarriage of plaintiff with the sister of Harchand Singh, as in laws of plaintiff's new wife had started poisoning his mind against the defendants. Defendants had accordingly prayed for dismissal of suit.

4. From the pleadings of parties following issues were framed :

- “1. *Whether Harchand Singh is valid attorney of Karter Singh and is competent to file the present suit? OPP*
2. *Whether the agreement dated 09.09.1982 and 13.09.1982 executed by defendant No. 3 in favour of defendants Nos. 1 and 2 are forged and fictitious documents and liable to be set aside? OPP.*
3. *Whether the plaintiff is entitled to decree for possession as prayed for? OPP*
4. *Whether the plaintiff is estopped from filing the present suit by*



his act and conduct ? OPD

5. *Whether the suit has not been properly valued for the purpose of court fee and jurisdiction? OPP*
6. *Relief.”*

5. Learned Court of First Instance decided issue No. 1 in favour of plaintiff holding that attorney of plaintiff namely Harchand Singh was his validly executed attorney. Issue No. 2 was decided against the plaintiff and in favour of defendant's holding agreements dated 09.09.1982 and 13.9.1982 to be validly executed agreements binding upon plaintiff. Issue No. 3 was also decided against the plaintiff and in favour of defendants. Issue No. 4 was decided in favour of defendants and against the plaintiff. Issue No. 5 was decided against the defendants and in favour of plaintiff and accordingly suit of the plaintiff was dismissed with costs. The 1st appellate Court on appeal preferred by plaintiff had affirmed the findings of the Ld. Court of First Instance on all the issues and had dismissed the appeal accordingly.

6. Both the courts have concurrently found that the agreement to sell executed by defendant No. 3 were duly executed and has found same to be executed as per instructions of plaintiff for consideration, which (consideration amount) was duly withdrawn by plaintiff from bank and was never returned to defendants.

7. In present case plaintiff has challenged and wanting to avoid agreements to sell primarily on following three grounds.

- (i) That power of attorney in favour of defendant No. 3 was duly cancelled on 04.10.1982 immediately on execution of agreements



to sell dated on 09.09.1982 & 13.09.1982, within 22 days of execution of alleged agreements to sell; which shows that arguments were not on instructions of plaintiff.

(ii) That land prices in the area were ₹ 10,000/- per acre whereas sale consideration fixed under impugned agreements to sell was ₹ 3,200/- per acre which in fact goes to show that agreements were not bonafide;

(iii) That defendants number 1 and 2 were outsiders residing at Patiala and Panipat and therefore purchase of land at Jagraon in fact goes to show that agreements were not bonafide but was only to grab the property of plaintiff who had duly cancelled the attorney just in just 22 days after the execution of agreements to sell.

8. Both the Courts have concurrently found that all the three arguments raised on behalf of plaintiff are without any merit. On consideration of pleadings as well evidence led by both the parties this court does not find any error in finding of facts recorded by both the Learned courts. It is worth noting that civil suit in present case was filed on 20.03.1985 challenging agreements dated 09.09.1982 and 13.09.1982. It is also not in doubt and in fact both the courts have also duly noted that the plaintiff had actually received the amount paid under the agreements i.e Rs. 48,000/- and 16,000/- duly deposited by attorney of plaintiff-appellant i.e. defendant No. 3 in the bank account of plaintiff-appellant before cancellation of power of attorney. Plaintiff-appellant while appearing as PW-1 had duly admitted that he himself had closed his bank account in 1983 by personally visiting the bank and had withdrawn the amount of ₹ 48,000 as well as 16,000/-. He had never challenged or issued any notice to defendants no. 1, 2 or 3 claiming that both the



agreements were not executed under his instructions. It was only in 1985 after about 3 years after withdrawal of earnest money from the bank account, plaintiff raised claim that the agreements were not bonafide and were not executed as per his instructions by his attorney.

9. Facts in present case are not much in dispute. It is admitted that power of attorneys were issued by plaintiff in favour of defendants No. 3 & 5. Close relationship between plaintiff and defendants No. 3 & 5 are also admitted as well death of wife of plaintiff on 11.08.1981 through whom plaintiff was connected with defendants No.3 & 5 are admitted facts. Therefore, it is not in dispute that both plaintiff and defendants No. 3 & 5 enjoyed close relationship at the time of execution of power of attorneys. It is also not in dispute between the parties that power of attorney in favour of defendant No. 3 was revoked on 4th of October 1982.

10. Merely because power of attorney was cancelled by plaintiff within 22 days of execution of agreement under challenge is not by itself is sufficient to conclude bonafide nature of agreements specially when both the defendants that is defendant No. 1 and 2 had duly appeared as witnesses i.e. DW-1 & DW-4, proved due execution of agreements, payment of consideration amount of ₹ 48,000 and ₹ 16,000 on execution of agreements dated 9th of September 1982 and 13th of September 1982. Attesting witness and scribe of agreements duly appeared as DW-2 and DW-6 and had spoken about due execution and payment of consideration amount before the court. Defendant No. 3 appeared as DW-5 had duly stated that amount of consideration i.e Rs. 48,500 & Rs. 16,000/- received on 09.09.1982 and 13.09.1982 upon execution of agreements to sell were duly deposited on 10.09.1982 & 13.09.1981 in the bank account of Plaintiff maintained with Indian Overseas Bank vide receipt Ex. D-13. Fact regarding deposit and



withdrawal of said amount was duly admitted by plaintiff while appearing as PW-1. Defendants have even proved sale of agricultural produce by examining DW3 who had duly asserted that it was defendants who were selling their agricultural produce to him and had placed the ledger account before the court. Similarly, DW6 who had scribed the agreements had duly stated that the agreement were duly read over and explained to the parties, thereafter, they appended their signatures paid money under the agreement. The evidence of parties has to be read in totality. Factum of cancellation of power of attorney in 22 days needs to be appreciated while keeping in view admissions by plaintiff and non-explanation on his part to explain that despite cancelling power of attorney why he had not issued any notice of defendants No. 1 & 2 asserting agreements to be not bonafide, deposit of consideration amount by defendant No. 3 immediately on receipt of consideration amount on execution of agreements dated 09.09.1982 & 13.09.1982 on 10.09.1982 & 13.09.1982 in account of plaintiff, why plaintiff withdrew said amount of consideration from his bank and never offered to return back to defendants No. 1 & 2 claiming agreements not authorised by him and why no steps were taken to challenge agreements till filling of suit only on 20.03.1985. If all above noted facts are considered collectively no fault with conclusion drawn by both the courts below can be found.

11. Similarly, ground that sale consideration was not sufficient is not established by plaintiff. In rebuttal evidence power of attorney of plaintiff had appeared as PW-3 and claimed that one acre land was worth 10,000/-. Except for oral assertions of PW-3, plaintiff is also relying upon evidence of patwari who was examined by defendants as DW-7 and had stated that from 1981 to 1985 land prices were upto Rs. 4,500/- per acre. However, this statement of DW-7 patwari alone cannot lead to conclusion that price of land was about 4,500/- per acre and



consideration @ of Rs. 3200/- as per agreements was insufficient. DW-7 had made general statement that land prices varied upto 4500/- between 1981 to 1986. DW-7 had further stated about instances of sales in year 1982-83 when 5 acre land was sold for Rs. 17,000/- and of year 1983-84 when 25 acre land was sold for Rs. 77,718/-. On consideration it is therefore made out land in 1982-83 was sold @ 3400/- per acre and in 1983-84 it was sold @ Rs. 3,109/- per acre. This rather shows that land as per agreement dated 09.09.1982 & 13.09.1982 was sold at the prevailing market rate of Rs. 3,200/- per acre. Therefore, courts below have rightly reject this plea raised on behalf of plaintiff -appellant.

12. Due execution of agreement is duly established by the defendants. The only argument to doubt is as regards to its nature whether execution of agreement to sell was bonafide in nature or not. In view of cancellation of power of attorney within 22 days as well as fact that land in the area was allegedly selling at Rs. 10,000/- are themselves not sufficient to doubt the bonafide nature of agreements, especially when the money received by power of attorney was duly deposited by Power of Attorney the in the account of the plaintiff who was resident of Hong Kong. It is also not in doubt that the said amount of ₹ 48,500/- and ₹16,000 were duly withdrawn by the plaintiff from his account in the year 1983, two years prior to filing of the present suit. Plaintiff, therefore, before filing the suit had never issued any notice or placed the same on record to show that he had challenged the execution of agreement by defendants No. 3 in favour of defendant Nos. 1 and 2. For the first time, he had challenged the agreements only after 2½ years of its execution in March 1985, when he filed present suit. It is worth noticing that plaintiff had already appointed his new power of attorney namely Harchand in December, 1982. No explanation is forthcoming as to why from 1982 to 1985 the agreements were not challenged. Failure to challenge



agreements to sell immediately after its execution though the power of attorney was cancelled and fact that consideration amount under the agreements were duly received by plaintiff and was never objected to or returned back even prior to filing a suit or after filing of suit goes to show that it was subsequently plaintiff had decided to wriggle out of agreements entered by his power of attorney validly in favour of defendant Nos 1 and 2 and, therefore, the conclusions of both the Courts below cannot be faulted with. Similarly, fact that the residence of defendant Nos. 1 and 2 was outside Jagraon or the State of Punjab has no nexus with bonafide nature of the agreements, as it is common for outsiders to purchase land in remote/other places. Findings of facts recorded by Courts below are accordingly affirmed. No question of law arises in the present appeal. Appeal is without merit, hence dismissed.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

08.09.2025

manoj

Whether speaking/reasoned
Whether reportable

(PARMOD GOYAL)
JUDGE

Yes/No
Yes/No