



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

205

**RSA-2166-1997(O&M)
Reserved on : 30.03.2026
Pronounced on : 07.04.2026**

TEHAL SINGH (DECEASED) THROUGH L.R.

...APPELLANT

VERSUS

INDERJIT KAUR AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Krishan Sharma Bhardwaj, Advocate for
for appellant.

Mr. Arvind Mittal, Advocate and
Mr. Sarvjeet Singh Thakur, Advocate
for respondent No.1.

PARMOD GOYAL, J.

Present regular second appeal has been preferred by appellant-plaintiff for setting aside the judgment and decree dated 29.07.1991 passed by learned Senior Sub Judge, Ropar, whereby suit filed by him was dismissed and judgment and decree dated 22.04.1997 passed by learned Additional District Judge, Rupnagar, whereby first appeal preferred by appellant-plaintiff against dismissal of his suit was also dismissed.

2. Appellant-plaintiff had filed suit for declaration to the effect that sale deed dated 18.11.1987 executed in respect of land measuring 05 kanals comprised in khasra number 24//13/2/2 situated in village Bela, tehsil and district Ropar, wholly described in plaint, is illegal, null and void, having no effect on his rights. Appellant-plaintiff claimed himself to be

owner in possession of suit land and had also sought permanent injunction restraining defendants from interfering in his ownership and possession. It was claimed that defendant No.2 by misrepresentation and fraud got executed power of attorney in his favour on 03.07.1987. Upon coming to know about fraud, appellant-plaintiff got the same cancelled through registered cancellation deed dated 13.08.1987 and defendant No.2 was duly informed about cancellation through written information under postal certificate dated 15.08.1987. It was asserted that despite cancellation of power of attorney, defendant No.2 without any authority executed the sale deed dated 18.11.1987 in favour of defendant No.1. It was claimed that that sale deed was without consideration as no amount has been paid to appellant-plaintiff. Appellant-plaintiff claimed possession of suit land as owner and sought declaration that sale deed is not binding on his rights.

3. Defendant No.2 had not appeared to contest the suit and suit was contested only by defendant No.1. Defendant No.1 by way of her written statement asserted that suit land was owned by her husband Lakhbir Singh @ Lakwinder Singh from whom appellant-plaintiff had purchased the said suit property through a bogus sale deed in which consideration was not passed. Lakbir Singh, husband of defendant No.1, was not living good moral life, had fallen in bad company and was spend-thrift. Defendant No.1 duly challenged the sale deed executed by her husband in favour of appellant-plaintiff upon which appellant-plaintiff had agreed to re-transfer suit land in her favour for price. It was asserted that appellant-plaintiff entered into an agreement to sell the suit land in favour of defendant No.1 on 03.07.1987 and had received whole consideration of Rs.12,500/- on that very day. The

agreement was written by professional deed writer and thumb marked by appellant-plaintiff and attested by witnesses after execution of agreement to sell. Defendant No.1 executed power of attorney in favour of defendant No.2 on 03.07.1987 which was duly registered on 09.07.1987. The said power of attorney was never cancelled to the knowledge of defendant No.1 or defendant No.2. It was asserted that defendant No.1 is *bona fide* purchaser of suit property and that father's name of appellant-plaintiff was wrongly written in sale deed, which was corrected by deed writer. The dismissal of suit was accordingly sought.

4. Following issues were framed from the pleadings of the parties:-

- i. *Whether the sale deed dated 18.11.87 is null, void and illegal and liable to be set aside as alleged? OPP.*
- ii. *Whether the suit is not maintainable in as alleged? OPD.*
- iii. *Whether the plaintiff is estopped from filing the present suit by his own act and conduct? OPD.*
- iv. *Relief.*

5. Facts in present case are not much in dispute. Admittedly, appellant-plaintiff had purchased the suit land from husband of defendant No.1, namely Lakhbir Singh @ Lakhwinder Singh as was duly admitted by appellant-plaintiff while appearing as PW1. Appellant-plaintiff, while appearing as PW1, also admitted that after purchase of suit land from Lakhbir Singh @ Lakhwinder Singh, defendant No.1 along with relatives had visited him and asked for the return of the land to which he agreed and had executed power of attorney in favour of defendant No.2 but defendant

No.1 had refused to pay any amount to him against price of land and accordingly appellant-plaintiff had cancelled the power of attorney in favour of defendant No.2 vide cancellation deed (Ex.P1). Appellant-plaintiff also duly informed defendant No.2 vide postal certificate dated 15.08.1987 (Ex.P2) and despite knowledge of cancellation, defendant No.2 had executed the sale deed illegally in favour of defendant No.1. From testimony of appellant-plaintiff, it is clearly established that appellant-plaintiff had duly executed registered general power of attorney in favour of defendant No.2 which was also cancelled vide registered cancellation deed. The only dispute is whether the said cancellation was duly communicated to defendant No.2 or not.

6. Appellant-plaintiff has claimed that he had duly issued notice of cancellation to defendant No. 2 on 15.08.1987 under postal certificate. However, both the Courts below, after duly considering claim of appellant-plaintiff that he had duly informed cancellation to defendant No. 2, had found that defendant No.2 had not received notice of cancellation. Both the Courts below doubted alleged notice of cancellation sent to defendant No.2 under postal certificate by observing that notice ought to have been sent through registered post and sending of notice through postal certificate is not beyond doubt and cannot be accepted as the same is stated to have been made on 15.08.1987, the date when post-offices remains closed on account of National holiday. It was noticed by Courts below that no postal certificate can be issued on 15.08.1987 as same is required to be certified by the postal authorities.

7. It was also noticed by both the Courts that the cancellation notice has not been placed on record by the appellant-plaintiff. In absence of cancellation notice, it cannot be presumed that postal certificate dated 15.08.1987 was regarding cancellation of power of attorney. The learned Courts below have also concluded that the information regarding cancellation of power of attorney ought to have been sent through registered post in view of provisions of Section 27 of General Clauses Act.

8. As noticed above, the circumstances in which general power of attorney was issued in favour of defendant No.2 are not in doubt. Admittedly, original owner of suit property was husband of defendant No.1, who had sold the same to appellant-plaintiff by registered sale deed. It is also not in doubt as both appellant-plaintiff and defendant No.1 had admitted that sale by Lakhbir Singh @ Lakhwinder Singh in favor of appellant-plaintiff was disputed by defendant No.1 and defendant No.1, along with her relatives, had approached appellant-plaintiff for cancellation of said sale deed.

9. Defendant No.1 has claimed that the protest made by defendant No.1 was accepted by appellant-plaintiff and accordingly he had duly executed agreement to sell (Ex.DX) in presence of attesting witnesses, which was scribed by Balwant Singh, Deed Writer-DW3. Agreement to sell was read over to appellant-plaintiff, who thumb-marked the same and had received total consideration of Rs.12,500/- fixed under the agreement in presence of attesting witnesses Joginder Singh and Surmukh Singh. DW-3 also claimed that factum of agreement (Ex.DX) was duly recorded by him in his register at serial No.270. The entries in register were proved on record as

mark B. The deed writer had also proved the fact that power of attorney was executed on same day in favour of defendant No.2 and was entered at serial No.271 by him, copy of which was proved on record as mark C.

10. Learned counsel for appellant has argued that mere production of photocopy of agreement to sell in absence of examination of any of the attesting witnesses to agreement to sell, same cannot be held to be proved and in absence of agreement to sell the claim of defendant No.1 that the consideration amount stood paid is not proved and rather, shows that the sale deed in favour of defendant No.1 executed by defendant No. 2 was without any consideration.

11. The argument raised by learned counsel for appellant appears to be attractive, however, on closer scrutiny, same is without any merit. The evidence of parties has to be appreciated in totality keeping in view admitted facts in their pleadings and evidence. In present case, originally suit land belonged to Lakhbir Singh @ Lakhvwinder Singh, husband of defendant No.1, who had sold the said land to appellant-plaintiff vide a sale deed, which was protested by defendant No.1. Both appellant-plaintiff and defendant No.1 are in agreement and have duly stated, while appearing in witness box as well as in their pleadings, that suit property was agreed to be re-sold. It is also admitted fact that appellant-plaintiff on the day of alleged agreement to sell (Ex.DX) had also executed general power of attorney on 03.07.1987 which was subsequently registered on 09.07.1987. The evidence of DW1 and DW3 regarding due execution of agreement to sell is clearly established by above noted facts and circumstances wherein appellant-plaintiff himself had admitted that he had agreed to sell the suit property

back to defendant No.1. The fact that appellant-plaintiff had agreed to sell the property coupled with the fact that he had executed the general power of attorney on same day for execution of sale deed, establishes and corroborates assertions of defendant No.1 that appellant-plaintiff had entered in agreement to sell dated 03.07.1987 and had duly received the consideration amount as fixed and stated to have been paid by DW1, DW3 and noted in agreement to sell (Ex.DX). Therefore, on appreciation of evidence of defendant No.1 and appellant-plaintiff, it is clearly made out that there was no reason for appellant-plaintiff to execute general power of attorney on 03.07.1987 in favour of defendant No.2, had he not received the consideration amount.

12. Apart from above noted facts, I am also in agreement with conclusions drawn by learned Courts below that appellant-plaintiff failed to prove his claim of cancellation of power of attorney. Admittedly, the general power of attorney was executed by appellant-plaintiff on 03.07.1987, registered on 09.07.1987 and as per appellant-plaintiff, same was got cancelled vide registered cancellation deed dated 13.08.1987 and notice of cancellation was duly sent by appellant-plaintiff to defendant No.2 by postal certificate dated 15.08.1987. It is also duly made out from records of present case that the alleged cancellation notice was not placed on record by appellant-plaintiff. In absence of contents of cancellation deed, postal certificate dated 15.08.1987 cannot be held to be a proof of sending cancellation notice. Unless cancellation deed is proved on record, abovesaid postal certificate is of no use to the case of appellant-plaintiff.

13. Moreover, in present case, the learned Courts below have rightly doubted act of appellant-plaintiff to convey cancellation of general power of attorney by way of postal certificate on a national holiday i.e. 15.08.1987. Postal certificate can only be issued by post office on a working day. The authenticity of postal certificate, without examining official from postal authorities, is doubtful and same is of no help to the case of appellant-plaintiff. Therefore, postal certificate cannot be taken as an evidence to the effect that cancellation deed was duly communicated to defendant No.2. Hence, the findings of both the Courts below that postal certificate is doubtful and does not prove communication of cancellation of general power of attorney to defendant No.2 cannot be faulted with. The conclusion drawn by both the Courts below is based upon evidence led by the parties. I am also in agreement with conclusion of learned Courts below that cancellation deed ought to have been informed by registered post. In absence of cancellation notice and doubtful postal certificate, appellant-plaintiff failed to prove due communication of cancellation deed of general power of attorney, therefore, the Courts below have rightly rejected assertions made by appellant-plaintiff that the general power of attorney stood cancelled on the date when the sale deed was executed in favour of defendant No.2. The cancellation would take effect from the date of communication of cancellation of general power of attorney qua defendant No.1. In present case, cancellation was never communicated, therefore, sale deed, executed by general power of attorney, has rightly been held to be valid by the learned Courts below. No other question of fact and law has been raised.

14. In view of above discussion, present appeal is dismissed being without any merit.
15. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

07.04.2026
Sunil Chander

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