



RSA-1252-2024 (O&M)

Sr.No.136

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

**RSA No.1252 of 2024 (O&M)
Decided on : 24.02.2025**

Balwinder Singh Bassi

...Appellant

Versus

Pal Singh @ Harpal Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. H.S. Dhindsa, Advocate
for the appellant.

Mr. Sarthak Gupta, Advocate
for respondent No.1/caveator.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in appeal. For convenience, the parties are being referred to by their original position in the suit i.e. the appellant as plaintiff and the respondents as defendants.

2. Plaintiff filed civil suit seeking decree of declaration to the effect that he is owner in joint possession of the suit land measuring 83 Kanals 17½ Marla as detailed out in the headnote of the plaint and that the Sale Deed dated 30.01.2008, executed by defendant No.1 in favour of defendant No.2, for an ostensible consideration of Rs.62,92,000/- was illegal and void. In the

**RSA-1252-2024 (O&M)**

alternative, the plaintiff sought decree for possession of the suit land after setting aside the impugned sale deed and further sought decree of permanent injunction restraining defendants from dispossessing the plaintiff from the suit land illegally.

2.1. As per plaintiff, he is residing in England. He is owner in possession of the suit land. He appointed his father-defendant No.1- Pal Singh @ Harpal Singh as his attorney to manage and look-after the suit land vide Power of Attorney dated 26.02.1992. Plaintiff claims that the main purpose of executing power of attorney was to manage affairs and not to grant any power to alienate. Having lost confidence in his father, the plaintiff cancelled power of attorney by way of registered Revocation Deed dated 17.01.2007 and intimated defendant No.1 vide notice dated 19.01.2007. Despite there being revocation of power of attorney, the defendant No.1 executed impugned sale deed in favour of defendant No.2 on 30.01.2008. The plaintiff thus sought decree of declaration to the effect that impugned sale deed is bad having been executed without there being any power vested in defendant No.1 to alienate the suit property.

2.2. Defendant No.1 filed a written statement denying cancellation or revocation of power of attorney dated 26.02.1992. He denied that plaintiff ever informed him on telephone regarding cancellation or revocation of the power of attorney. It was denied that Sale Deed dated 30.01.2008 executed in favour of defendant No.2 was without consideration.

2.3. Defendant No.2 vide separate written statement claimed that he had no knowledge of cancellation of power of attorney in favour of defendant

**RSA-1252-2024 (O&M)**

No.1 executed by plaintiff. Plaintiff himself had finalized the deal for the sale of suit land and he personally received Rs.50,000/- as token. Plaintiff authorized his father by way of power of attorney to execute the agreement to sell. Defendant No.2 is a *bonafide* purchaser for consideration.

2.4. Suit filed by plaintiff was put to trial by the Court of first instance framing following issues:-

1. *Whether the plaintiff is entitled for declaration as prayed for? OPP*
2. *Whether the plaintiff is entitled for possession of the suit land as prayed for? OPP*
3. *Whether the plaintiff is entitled for permanent injunction as prayed for? OPP*
4. *Whether the suit of the plaintiff is not legally maintainable in the present form? OPD*
5. *Whether the plaintiff is estopped by his act and conduct from filing the present suit? OPD*
6. *Whether the plaintiff has not come to the court with clean hands? OPD*
7. *Whether the suit has been properly valued for the purpose of court fee and jurisdiction? OPD*
8. *Whether the plaintiff is estopped by his acts and conduct from filing the present suit? OPD*
9. *Whether the plaintiff has no locus-standi to file the present suit? OPD*

2.5. Additional issues i.e. 1(a) and 1(b) were subsequently framed vide order dated 19.02.2016, which are as under:-

- 1(a). *Whether the defendant No.2 is a bonafide purchaser for a valuable consideration without the knowledge and notice of revocation of general power of attorney dated*

**RSA-1252-2024 (O&M)**

*26.02.1992 executed by plaintiff in favour of his father
defendant No.1? OPD*

*1(b). Whether the plaintiff is entitled for the relief of possession
of the suit land in the alternative as prayed for? OPP*

2.6. The Court of first instance found that though plaintiff claimed that revocation of the power of attorney was communicated by him to defendant No.1, but he failed to prove any such communication. The plaintiff produced affidavit of one Harvinder Singh as Ex.P8 to prove delivery of revocation deed to defendant No.1. However, Harvinder Singh was never examined. The Court further found that the agreement to sell *qua* land in dispute was executed on 02.05.2006. Thus, the revocation deed dated 17.01.2007 has no effect with respect to the performing of the part of contract arising out of agreement to sell dated 02.05.2006. The Court of first instance, thus, dismissed the suit.

2.7. The unsuccessful plaintiff approached the Lower Appellate Court. Lower Appellate Court after reappreciating the evidence agreed with the conclusions drawn by the Court of first instance and affirmed the judgment and decree passed by the Trial Court.

3. Counsel for the appellant/plaintiff while assailing the impugned judgments and decrees passed by the Courts below submits that the Courts have erred in appreciating the core issue between the parties. He submits that both the Courts below have concurrently found that the revocation deed dated 17.01.2007 stands proved and yet the Courts have upheld the sale deed dated 30.01.2008, executed by defendant No.1, acting as attorney of plaintiff, in favour of defendant No.2.

**RSA-1252-2024 (O&M)**

3.1. Counsel for the appellant/plaintiff further submits that onus to prove issue No.1(a) regarding defendant No.2 being a bonafide purchaser was upon defendant No.2. No evidence was led by him to prove the same and thus, the Courts below ought to have decreed the suit filed by plaintiff.

4. I have heard counsel for the appellant and have carefully gone through records of the case.

5. In the considered opinion of this Court, the controversy between the parties is quite narrow. Execution of power of attorney dated 26.02.1992 by plaintiff in favour of defendant No.1 is not in dispute. Relationship between plaintiff and defendant No.1 is also admitted. It is also not disputed that the power of attorney executed by plaintiff contained recitals granting power to defendant No.1 to alienate the property in question. Defendant No.1 acting as agent of plaintiff entered into an agreement to sell dated 02.05.2006 in favour of defendant No.2. Plaintiff claims to have cancelled the power of attorney on 17.01.2007. He was required to prove that the factum of cancellation of power of attorney dated 26.02.1992 by way of revocation/cancellation deed dated 17.01.2007 was communicated to agent i.e. defendant No.1. Plaintiff claims to have delivered a copy of revocation deed to defendant No.1 through Harwinder Singh Gill. His affidavit has been tendered in evidence. However, no effort was made to examine Harwinder Singh Gill. Plaintiff has placed on record document Ex.P6 i.e. the postal receipt *qua* copy of revocation deed having been sent to Naib Tehsildar on 19.01.2007. No official from the office of Naib Tehsildar was examined to prove receipt of the revocation deed in the office of the Sub-Registrar. There is no document to prove that the



RSA-1252-2024 (O&M)

revocation deed was ever communicated to defendant No.1. Defendant No.1 admits execution of agreement to sell as well as execution of sale deed in favour of defendant No.2 for valuable consideration. Defendant No.1 himself admits that he had no intimation with respect to cancellation of the power of attorney in his favour. Thus, knowledge regarding revocation deed of power of attorney in favour of defendant No.1 cannot be attributed to defendant No.2.

6. In view thereof, this Court finds that the Courts below have rightly appreciated the evidence and returned findings on the issues, resulting in dismissal of the suit.

7. There is no question of law involved in the present appeal that can persuade this Court to interfere in second appeal. Finding no merits, the appeal is dismissed with no order as to costs.

8. Pending application(s), if any, shall also stand disposed off.

**(PANKAJ JAIN)
JUDGE**

February 24, 2025

ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No