





equal shares. It was claim of plaintiff that she had also acquired title on the basis of registered release deed No.5427/1 dated 11.09.2008, which was mutated in her favour vide Mutation No.11794. That she continues to be owner in possession of land mentioned in the suit measuring 2 kanal 15 marlas, situated in Village Bohar, Tehsil and District Rohtak. She asserted that she is also owner of 555 square yards which is bounded by properties duly mentioned in the plaint. That defendant No.1 is claiming ownership on the basis of sale deed No. 670 dated 27.04.1992 for alleged consideration of Rs.84,000/-. That defendant No.1 is claiming said sale deed having been executed by Mahavir Singh who claimed ownership based on sale deed No.7289 dated 31.10.1990 based on alleged power of attorney dated 06.08.1986 in favour of Rajinder Singh-defendant No.2. It is asserted that registered General Power of Attorney bearing No.219 dated 06.08.1986 in favour of defendant No.2 is void and illegal and is a result of fraud, impersonation and misrepresentation. That she had never executed GPA dated 06.08.1986. She had never signed or thumb marked it nor had received any consideration. She claimed that neither she was party to the GPA nor had appeared for registration of GPA before the Registrar and in her place somebody else had executed the GPA in question. The sale deeds dated 31.10.1990 in faour of Mahavir Singh and sale deed dated 27.04.1992 in favour of defendant No.1 on the basis of GPA dated 06.08.1986 in favour of defendant No.2 are void illegal and not binding on the rights of plaintiff. It is the case of plaintiff that she came to know about this fact when her husband had visited the suit property and found defendant claiming the possession in respect of suit property. She has accordingly, sought declaration that GPA dated 06.08.1986 and sale deeds dated 31.10.1990 and 27.04.1992 being



illegal and void are not binding on her rights.

3. On notice, defendant No.1 had filed his detailed written statement and asserted that it was plaintiff who had executed valid, legal and registered general power of attorney dated 06.08.1985 in favour of defendant No.2. The same was duly registered and witnessed by witnesses. It was asserted that defendant No.2 is a close relative of plaintiff and even brother of plaintiff namely Vijender son of Balwan Singh had also executed registered GPA dated 12.07.1999 in favour of defendant No.2. It was asserted that on the basis of registered general power of attorney defendant No.2 had executed sale deed dated 31.03.1990 in favour of Mahavir Singh and then Mahavir Singh had executed sale deed in his favour. Defendant No.1 also claimed that he has also sold the suit property to Prem and Chitra in equal share. Dismissal of suit was accordingly prayed for.

4. Defendant No.2 in his written statement took preliminary objections regarding maintainability, suit being barred by limitation and plaintiff having not approached the Court with clean hands. He reiterated the defence taken by defendant No.1 and prayed for dismissal of suit.

5. Defendant No.3 and 4 also took number of preliminary objections similar to other defendants. They also took similar stand as was taken by defendants No.1 and 2 on merits.

6. From the pleadings of parties, following issues were framed:-

1. Whether the plaintiff is entitled to decree for declaration alongwith permanent injunction on the grounds as averred in the plaint? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form? OPD
3. Whether the suit is bad for non-joinder of necessary parties?



## OPD

4. Whether the plaintiff have not come to the court with clean hands and they have suppressed true and material facts? OPD
  5. Whether the plaintiffs are stopped by their own act and conduct from filing the present suit? OPD
  6. Whether the plaintiff has no locus standi to file the present suit? OPD
  7. Relief.
7. I have heard learned counsel for the appellant and perused the records. In the present case, both the Courts have concurrently concluded that GPA was duly executed by plaintiff - appellant and has relied upon on the statements/evidence led by defendants in the shape of evidence of defendant No.2 Rajinder Singh son of Shiv Singh, who appeared as DW4 and that of DW5 Rajinder Singh son of Mulkh Raj attesting witness to general power of attorney dated 06.08.1986. Both the Courts have also concluded that from evidence of PW5 handwriting expert examined by plaintiff herself, the thumb impressions of plaintiffs over general power of attorney dated 06.08.1986 were not denied to be that of plaintiff and, therefore, plaintiff has failed to prove her case that she had never executed general power of attorney in favour of defendant No.2. Reliance on report of DW-7 hand writing expert examined by defendants was duly placed who had duly stated that GPA bears signatures of plaintiff-appellant.
8. The sole dispute in the present case is whether general power of attorney dated 06.08.1986 was result of fraud, misrepresentation, and impersonation. There is no doubt as regards to principle of law that initial onus to prove a document is always upon person who claims due execution of said document. And once initial onus is discharged, the burden shifts on the person who claims document to be result of fraud or impersonation. In the present



case also the initial onus, therefore, was upon defendants to prove due execution of general power of attorney dated 06.08.1986.

9. On consideration, I find that defendants have succeeded in discharging their initial onus by examining attesting witness of general power of attorney as DW5. Defendant No.2 in whose favour general power of attorney was executed as DW4. Officials from office of Sub Registrar proving that the general power of attorney was registered with office of Sub Registrar who had appeared as PW2 and PW3 and that of handwriting expert Deepak Jain PW7 who had duly asserted that the signatures on general power of attorney are of plaintiff. The above noted evidence led by defendants in support of due execution of registered general of attorney dated 06.08.1986 in fact is corroborated by the evidence of expert examined by plaintiff/appellant as PW5 who had duly asserted that general power of attorney having thumb impressions were taken on blank papers.

10. In the present case admittedly general power of attorney was not only signed by plaintiff and others but also was thumb marked by her & others. Plaintiff had claimed that she had never signed or thumb marked general power of attorney and same is a result of impersonation. However, this fact being asserted by plaintiff/appellant is contradicted by her own witness i.e. PW5 handwriting expert examined by her. Perusal of report of handwriting expert PW5 who had placed his opinion as Ex.PW5/A and Ex.PW5/K. Vide Ex.PW5/K, PW5 had opined that signatures on general power of attorney does not match with standard signatures of plaintiff, however, in his report Ex.PW5/A he had opined that the thumb impressions of plaintiff on power of attorney were taken on blank papers. He has nowhere stated that thumb impressions of plaintiff do not match with the thumb impression on the power



of attorney. His total focus is to opine that thumb impressions were taken on blank papers and then blank papers were converted to typed papers. The fact that the thumb impressions of plaintiff on general power of attorney dated 06.08.1986 pertains to her (as it was she to prove it otherwise) in fact smashes the case of plaintiff as it is the case of plaintiff that she had neither thumb marked nor signed the general power of attorney. The evidence of PW5 witness examined by plaintiff in fact goes to demolish the entire case of plaintiff and is in total contradiction to claim made by plaintiff. Evidence of DWs is consistent and reliable and is corroborated by expert opinion in the shape of PW5 regarding thumb impression and DW7 handwriting expert examined by defendants who stated that and signatures on general power of attorney is that of plaintiff/appellant alone.

11. Learned counsel for appellant faced with above has referred to the evidence of DW4, DW5 and DW7 and asserted that their evidence is full of contradictions. It is worth noticing that DW4 and DW5 who had witnessed the due execution of power of attorney were examined after 32 years of execution of power of attorney. The evidence of DW4 and DW5, therefore, needs to be appreciated keeping in view the fact that all of us do tend to make exaggerations and omit facts with lapse of time. Therefore, minor contradictions/discrepancies have to be appreciated accordingly. I do not intend to note down all the minor discrepancies pointed out by learned counsel for appellant. Perusal of first appellate Court judgment and decree shows that the discrepancies being pointed now before this Court were duly pointed out before the First Appellate Court also and were duly noted and dealt with by First Appellate Court in detail, therefore, noting them again is not necessary. I do not find any of the minor discrepancies pointed out by learned counsel



for appellant to be material which can change the conclusion regarding appreciation of evidence of DW4, DW5, DW7 and PW5. General Power of Attorney is a registered document and has been duly stated by PW2 and PW3 officials from office of Sub Registrar to have been executed before Sub Registrar. A registered document carries presumption of due execution unless shown otherwise. I am unable to defer with finding of facts recorded by both the Courts below regarding due execution of general power of attorney in favour of defendant No.2.

12. On one hand defendants have succeeded in proving due execution of general power of attorney and its registration with office of Sub Registrar, on the other hand, plaintiff has failed to lead any evidence to prove factum of fraud, misrepresentation or impersonation, rather her own witness PW5 by proving thumb impressions of plaintiff on general power of attorney were taken on blank papers and not denying that they were not of plaintiff strengthens the case of defendants and has proved the claim of plaintiff/appellant to be false. Evidence of PW5-handwriting expert, cannot be relied upon to conclude that plaintiff had not signed the GPA dated 06.08.1986. In fact plaintiff/appellant has failed to prove that GPA dated 06.08.1986 was result of fraud and fabrication or impersonation. Mere claim that GPA was result of impersonation does not constitute suspicious circumstance. It was for plaintiff/appellant to show fraud or impersonation but there is no evidence.

13. I am also in agreement with conclusion drawn by learned Courts below regarding present suit being barred by limitation also. Plaintiff/appellant has challenged due execution of general power of attorney dated 06.08.1986 in year 2014 by filing present suit. The challenge has been



made after 28 years. Plaintiff/appellant is claiming to be in possession. Therefore, the limitation for challenging general power of attorney were 3 years from its execution or from date of knowledge about its execution. Mere oral assertions by itself cannot be accepted by courts to justify knowledge about an act to enlarge scope of period of limitation. Courts are duty bound to appreciate evidence led by parties in totality of facts and circumstances of each case. The onus to prove date of knowledge to avoid limitation is heavy onus, which party alleging / asserting needs to discharge. Unless onus to prove date of knowledge is discharged by cogent evidence the courts must be extremely slow in interfering in time barred matters. Courts must not allow themselves to be used by unscrupulous litigant to harass other side. It must be kept in mind by courts that it becomes extremely difficult for defendant to prove due execution of documents after passing of time specially when challenge is made after 15 plus years as human memory fades, corroborating evidence is erased / destroyed or weeded out. Post office records, telephone records and similar evidence are weeded out and in many case even witnesses dies and are not available. Allowing a time barred case is just giving premium to person who himself/herself was negligent / has become dishonest with passing time due to many fold appreciation in value of immovable property. Plaintiff/appellant is claiming that she came to know about execution of general power of attorney when her husband had gone to the plot in December 2012, at that time defendants had claimed the suit property. Further plaintiff while appearing as PW during her cross-examination duly admitted that 7-8 years ago defendant No.2 had sought apologies for fabricating general power of attorney and, therefore, she had not proceeded against defendant No.2 by lodging complaint with the police. Plaintiff/appellant was examined on



16.04.2016. Therefore from her own admission she knew about GPA since 2008 at least which allegedly was fabricated. Failure to file suit by early 2012 makes suit time barred from own admission made by plaintiff-appellant.

14. I do not find any error in the approach of learned Courts below as both the Courts have concluded that defendant has succeeded in proving due execution of GPA, which is a registered document by examining defendant No. 2 as well as attesting witnesses and handwriting expert, who had duly proved the signatures of plaintiff as well as thumb marks of plaintiff-appellant over sale deed. The onus cast upon defendant in the present case has been duly discharged by defendant and it was thereafter, duty of plaintiff to show that sale deed dated 07.11.1986 was result of fraud, fabrication, and misrepresentation which she has failed to prove. Once GPA is proved to be genuine then sale deeds executed on basis of valid GPA are binding upon plaintiff-appellant.

15. Concurrent finding of facts therefore, cannot be faulted with and accordingly affirmed. No question of law arises in the present case. Appeal is accordingly dismissed.

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

01.10.2025  
chiranjeev

(PARMOD GOYAL)  
JUDGE

Whether Speaking/Reasoned : Yes/No  
Whether Reportable : Yes/No