

OPENING SHEET FOR REVENUE APPEAL.

No 23 / 2822
Fast / 10/12/09
presented
by
counsel. Issue
for 30/8/09.
Memorandum
of law
order to
stay
to
be
by

IN THE COURT OF LD. COLLECTOR SHAHED BHAGAT SINGH NAGAR.

APPEAL under section 13 of the Punjab Land Revenue Act 1887.

Appellant side Revenue appeal No..... of 2009

District	Date of Filing the Appeal / Revision	Whether received from appellant in person or by pleader or advocate or agent	Stamp on petition or appeal
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Shaheed Bhagat Singh Nagar. 14.7.09. S. Hardip singh Advocate, Distt. Courts Nawanshahar 1-25P



1. Sukhwinder singh s/o Ram singh r/o village Khadiala Sainian tehsil & distt. Hoshiarpur presently residing at village Jaidpur tehsil Garhshankar distt. Hoshiarpur.
2. Gurmail Kaur d/o Ram singh w/o Gurdial singh r/o village Shekhupur tehsil Phagwara distt. Kapurthala.
3. Jasbir Kaur d/o Ram singh w/o Surinder singh r/o village Dalli tehsil Bhogpur distt. Jalandhar.

..... Appellants

V/S

Surjit singh s/o Chanan singh r/o village Kariha tehsil Nawanshahr distt. SBS Nagar.

..... Respondent

Appeal :-From the order of sh. Birpal singh PCS ACIG Nawansahr dt. 19.6.2009.

Claim in appeal ; -- To accept the appeal and set aside the order of the lower court dt. 19.6.2009 and reject the mutation No. 7210.

Grounds of appeal:-

1. That the order under appeal is against law and facts and is not sustainable in the eyes of law.
2. That the lower court has not discussed and decided the issuance of legal notice for canceling the power of attorney on 30.7.2007 which was refused by Ram singh on 2.8.2007. Later on the original power of attorney was handed over by Ram singh to the appellant Sukhwinder singh on 4.8.2007. At the time of executing the sale deed in question the original power of attorney was not in possession of Ram singh but the same was with the appellant Sukhwinder singh. The lower court has not considered this aspect of the case resulting into miscarriage of justice to the appellant.
3. That the lower court has not considered the evidence led by the appellant hence resulted into delivering wrong judgment. The lower court has further not mentioned the provisions of Indian Contract Act brought into its notice at the time of arguments resulting into passing wrong order under appeal and miscarriage of justice to the appellant.
4. That the appellants have been completely ignored regarding possession of the property which is with the appellants right from beginning. Now the partition has also been affected in which the possession after partition has also been delivered to the appellant in partition proceedings.

5. That there is specific form in canceling the power of attorney. It was canceled by giving notice on 30.7.2007. To get the same canceled through registered document it was also registered in the JSR office Bhunga on 10.8.2007. At the first instance POA was canceled on 30.7.2007 and its notice was given to Ram singh to which he refused on 2.8.07 and thus he was also within the knowledge of its cancellation. On 4.8.2007 it was Ram signh who handed over the original power of attorney to Sukhwinder singh and thus the POA stood withdrawn on 4.8.07 hence Ram singh had no pwer of attorney with him on 9.8.2007. This fact is also proved from the registration record where no copy from original power of attorney was placed with the sale deed. The certified copy of power of attorney after withdrawing the original from the agent, carries no legal meaning and the certified copy of POA does not prove the authority of the agent as original was withdrawn from him by the principal. The false affidavit also does not give any authority to the agent to use the power of attorney as he intentionally might have lodged false report with the police to doge the principal.
6. That the lower court has wrongly relied upon the police report which is incomplete report and is not binding on the court. The lower court required to pass its own independent order on the basis of evidence lead by the appellants. The death of Ram Singh is in no way any hurdle in rejecting the mutation as there is clear cut report of postal authorities regarding refusal by Ram Singh to receive the notice of withdrawal of power of attorney on 2-8-2007 during his life time. The police has ignored all these factors intentionally to help the purchaser out of the way and also ignored the directions of the high court in conducting the fair in fair. Even otherwise, the incomplete report is not record in the eyes of law. Most important aspects of the case have been left out by the police which have come in evidence in the court and the lower court has also ignored these important factors. The lower court already suffers from material irregularities and is liable to be set aside. The serving of notice for acting as attorney and cancellation of the same by notice on 30-7-2007 gives no power to the Ram Singh to execute any sale deed after 30-7-2007 or at the most after 4-8-2007 when he handed over the original power of attorney to the appellants Sukhwinder Singh. The report dated 6-1-2007 under rapat No. 39 was got entered only to avoid handing over the original power of attorney to the appellants at a later stage and there was a malafide intention in the mind of Ram Singh at that time and this fact regarding handing over the power of attorney on 4-8-2007 has completely been ignored by the lower court as well as the police authorities which go through the rout of the case and makes the sale deed , a void document and mutation can not be sanctioned on the basis of such a document.
7. That the lower court has considered himself above the civil court knowing the fact well that after civil court has already passed relevant orders in favour of the appellants.
8. That after deducting the time spent in obtaining and prepration of the copy of order dt. 19.6.2009, the appeal is well within time.
9. That the fixed court fee of Rs. 1-25p. is affixed on the appeal.
10. That the petitioner therefore prays that the appeal may kindly be accepted and the under appeal dt. 19.6.2009 vide which the mutation No. 7210 has been sanctioned, kindly be set aside, in the interest of justice.

Submitted by :---
Sukhwinder singh & others.... Appellants,
Through :- S. Hardip singh Advocate,
Distt. Courts Nawanshahar.

समर्थक के
उत्तमल का
गुजरात 18/08