

Romesh Chander Vs. Om Parkash

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Court : Jammu and Kashmir

Decided On : Aug-20-2004

Reported in : 2005(1)JKJ351

Judge : S.K. Gupta, J.

Acts : Registration Act, 1997 - Section 60(2); ;Registration Act, 1977 - Section 60(2)

Appeal No. : Civil Revision No. 62/2004

Appellant : Romesh Chander

Respondent : Om Parkash

Advocate for Pet/Ap. : K.N. Sapolia, Adv.

Disposition : Petition dismissed

Judgement :

S.K. Gupta, J.

1. This revision is directed against the order dated 07/02/2004 formulated by the learned Munsiff Udhampur, by virtue of which, application of the defendant/petitioner to summon Sh. Sain Dass Jangwal, the then Sub Registrar, Udhampur, as witness to prove the document dated 10/07/1996 registered on

16/07/1996, has been declined.

2. Facts, in resume, may be noticed. The execution of Relinquishment Deed dated 10/07/1996 registered on 16/07/1996 by the Sub Registrar, Udhampur, was challenged in a suit filed by the plaintiff before the Munsiff, Udhampur, on the filing of the demurrer and after framing of the issue, the matter was pending at the stage of recording defendant's evidence. After the plaintiff examined his witnesses in entirety, an application came to be initiated by the defendant/petitioner seeking the indulgence of the Court to summon the then Sub Registrar, Sh. Sain Dass Jangwal, who had registered the document, and examine him as witness. This necessity, according to the petitioner, arose as Sh. Gopi Nath, who happens to be the marginal witness of the said document, had died and two other attesting witnesses who identified the executant did not support and were declared hostile.

3. The Trial Court after hearing the parties and referring to provisions of Section 60(2) of the Registration Act, 1977, found that the appearance and examination of Sub Registrar is not required for proving the document as he has performed only a judicial act in regard to the proceedings before him at the time document was registered and passed impugned order which became the subject matter of challenge in this revision petition.

4. It is significant to point out that certificate issued by the Registering Authority under Section 60(2) of the Registration Act, 1977 is only to the effect of proving that the document has been duly registered in the manner provided by the Act. This further envisages by implication that whatever proceedings have taken place before the registration of the document between the parties at the time of execution or the document are not required to be proved by the Registering Authority in examining the witness at the instance of the parties. The endorsement of the Sub Registrar on the certificate issued only pertains to the proceedings which took place before him at the time of registering the document. However, the proceedings with regard to the execution of the document which had taken prior to the registration could only be proved either by the attesting witness or scribe.

5. There does not appear to be any legal infirmity or jurisdictional error in the order impugned passed by the Trial Court necessitating interference in revision.

6. In the result, revision possessing no merit, is, accordingly, dismissed.

7. Record be remitted back to the trial court forthwith.

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