

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

CR No. 1082 of 2013 (O&M)
Date of decision: July 21, 2015

Parveen Bhasin

...Petitioner

Versus

Inderjeet Bedi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Virender Kumar, Advocate,
for the petitioner.

Mr. Jagdish Manchanda, Advocate,
for the respondents

K. KANNAN, J. (Oral)

1. The revision is against the order rejecting a prayer of the defendants for rejection of the plaint on the ground that the plaintiffs have not affixed appropriate court fee for the relief sought in the suit. Admittedly, the plaintiffs have not executed a sale deed they are seeking to set aside and they are defending the court fee paid as justified by reference to the fact that being a non-executant, it was not necessary to have the sale set aside and to pay court fee on the market valuation and the prayer for setting aside must be understood as a prayer that they are bound by the sale. The court accepted the contention and dismissed the application. The defendants are in the revision petition.

2. The counsel for the petitioners argues that the prayer for

declaration is accompanied with a prayer for possession of the property which admittedly is in the hands of the defendants and, therefore, ad valorem court fee has to be paid on the market valuation, as the decision of the Supreme Court in Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others 2010 (12) SCC 112.

3. The counsel appearing on behalf of the respondents would seek to support the decision by pointing out that they are not asking for recovery of possession but they are asking for joint possession, as set out in the preamble of the plaint.

4. The issue of the court fee has to be decided always on the pleadings of the plaintiffs and what the true purport of the pleadings are. I notice that although the plaintiffs have sought for joint possession, in the body of the plaint, the plaintiffs have stated that the defendants are running a business in the property of 2 and 5 under the name and style Sant Garments and that they declined to vacate the property and give back vacant possession to the plaintiffs. Elsewhere in the same plaint in the relief column, the plaintiffs have asked for the sale to be declared as null and void and seek for the defendants to hand over vacant possession of the property to the plaintiffs. There is also a reference to the joint possession at the place where handing over the vacant possession was sought. I find the expression of joint possession to be meaningless in such a situation and will take the plaint only seeking for possession and consequently would find that proper court fee has not been affixed.

5. I set aside the order passed by the court below and direct the plaintiffs to pay ad valorem on the market value of the property as on the date of the institution of the suit. The plaintiffs shall declare the valuation

within two weeks from the date of the receipt of a copy of this order and pay appropriate court fee thereon. If the plaintiffs themselves would not offer the court fee by valuing the suit property, the court shall appoint an officer of the court who may either be bailiff or any person from the revenue department to assess the valuation as on the date of the suit within four weeks and furnish a test report on valuation. On furnishing of such report, the plaintiffs will be given an opportunity to pay the court fee within a further period of one week and if the court fee is not paid, the plaint shall be rejected.

6. The revision petition is allowed with the above direction.

July 21, 2015
prem

(K.KANNAN)
JUDGE