

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

CR-1501 of 2013

Date of Decision: December 15, 2015

Krishan Kumar

...Petitioner

vs.

M/s Vrindavan Infratech Pvt. Ltd.

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sudhir Aggarwal, Advocate
for the petitioner.

Mr. Sanjay Vij, Advocate
for the respondent.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present revision is the order dated 07.02.2013 passed by learned Civil Judge(Jr. Divn.) Gurgaon vide which the application filed by defendant under Order 7 Rule 11 CPC was allowed and plaintiff was directed to pay ad valorem Court fee on or before 07.03.2013.

In nutshell the plaintiff has sought declaration to the effect that sale deed registered on 09.05.1956 of area measuring 782 square yard is not binding on his rights.

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:2:

He also seeks recovery of possession. The pleading shows that plaintiff has not disputed the sale of entire 782 square yard area. He has disputed only 172 square yard area which according to him could not be sold by the owner. Plaintiff is not party to the sale deed.

In these circumstances, it is a mixed question of fact and law as to how much Court fee is payable on the suit. It being so, the impugned order is set aside the lower Court is directed to frame issue as to whether the ad valorem Court fees is payable on the plaint and if so how much? Then both the parties will be allowed to lead the evidence along with the other issues and thereafter the arguments shall be heard on all the issues. If the Court is of the view that some more Court fee is payable, the lower Court will first direct the plaintiff to pay the requisite Court fee before pronouncing the judgments on merit.

Revision is allowed in the above noted terms.

December 15, 2015
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(KULDIP SINGH)
JUDGE