

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CR No.2513 of 2011(O&M)

Date of Decision:-12.02.2015

Nizar Mohammad & Anr.

.....Petitioners.

Versus

Manohar Khan & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Sachin Mittal, Advocate for the Petitioners.

None for respondent no.1.

Mr. R.S. Hooda, Advocate for respondent no.2.

JASWANT SINGH, J.(ORAL)

Two plaintiffs and defendant no.1 are real brothers. Defendant no.1 vide sale deed no.2668 dated 27.11.2006 sold of his 1/3rd share in the joint land in favour of his *Bhabhi* (wife of another brother Ashraf)-defendant no.2. The mutation no.159 was entered and sanctioned in favour of defendant no.2 on 27.11.2006. The two plaintiffs-brothers have filed a civil suit in sum and substance claiming revisionary rights and thus cancellation of the sale deed dated 27.12.2006. Defendant no.2 in her written statement *inter alia* has taken up the plea that defendant no.1 has adopted a son, who is asserted to be alive and in the presence of the said adopted son the question of succession by the alleged revisioners or collateral's does not arise. She has further asserted her absolute ownership on the basis of duly

registered sale deed for a valuable consideration.

Having heard learned Counsel for the parties, it is apparent that the petitioners/plaintiffs have no pre-existing right in the suit property. In fact they are claiming revisionary right on the basis of custom and thus are liable to affix Ad Valorem Court Fees on the sale consideration of the sale deed since the challenge to the sale deed is not based on any pre-existing right. Thus viewed, I find no ground to interfere with the impugned order.

In view of the above, finding no merit in the present revision petition the same is hereby dismissed. However, since there was interim stay passed by this Court, the petitioners/plaintiffs are now granted 30 days time w.e.f. today to deposit Ad Valorem Court Fees in terms of the order dated 25.02.2011 (P-4) passed by Civil Judge (Sr. Divn.), Nuh.

**(JASWANT SINGH)
JUDGE**

February 12, 2015
Vinay