

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

CR No.2195 of 2013 (O&M)

Date of decision: 26.11.2015

Buta Singh and another

... Petitioners

versus

Davinder Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms.Sonia G.Singh, Advocate for the petitioners.

Mr. Sandeep S.Majithia, Advocate for respondent No.1.

K.Kannan, J.(Oral)

A mere declaratory action that a sale deed is not valid and that it is required to be set aside, was resisted by the defendant on a plea that the suit itself has not been properly valued and that the plaint was liable for being rejected. The trial Court observed that a sale amongst blood relations are exempted from stamp duty and consequently valuation of the suit on the basis of consideration and court fee is unnecessary.

The issue ought not to be tested on stamp duty payable but will have to be examined as to whether the declaratory action is accompanied with any ancillary relief for recovery of possession in which case alone the valuation is to be adopted by application of

Section 7(iv) Clause-c. This is so interpreted by the Supreme Court in judgment *Suhrid Singh alias Sardool Singh (2010) 12 Supreme Court Cases 112*. If there is no ancillary prayer for possession and the plaintiff is satisfied with the declaratory relief with consequential relief being injunction, easement or account, the relief shall be on the valuation as declared by the plaintiff on the plaint or memorandum of appeal as per Section 7(iv) of the Court Fees Act. The valuation which the plaintiff had adopted shall be taken as appropriate and there is no necessity to adopt a market valuation of the property.

The order passed already is sustained and the revision petition is dismissed.

(K.KANNAN)
JUDGE

26.11.2015
Meenu