

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4179 of 2008 (O&M)
Date of Decision: September 29, 2015

Satish

...Petitioner

Versus

Maha Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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.Sanjay Vij, Advocate,
for the petitioner.

Mr.Arvind Kashyap, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

Mr.Sanjay Vij, learned counsel appearing on behalf of the petitioner submits that respondent Nos.5 to 8 were *ex-parte* before the Court below, therefore, they need not be served and their service may be dispensed with for the adjudication of the present revision petition.

Ordered accordingly.

The challenge in the present revision petition is to the impugned order dated 31.5.2008, whereby the petitioner has been called upon to pay the ad valorem court fees.

Mr.Sanjay Vij, learned counsel appearing on behalf of the

petitioner submits that the suit for declaration was filed challenging the sale deed dated 25.2.2000 executed by the father of the petitioner in favour of the defendants by affixing the fixed court fees, however, the trial Court, on an application filed by the defendants, has called upon the petitioner to pay the ad valorem court fees by treating the plaintiff to be the signatory of the sale deed. He submits that the sale deed executed by the father would not clothe the liability of his son to pay the ad valorem court fees and, therefore, the ratio decidendi culled out by the Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh Versus Randhir Singh & Ors., 2010(2) RCR (Civil) 564** would be squarely applicable to the facts and circumstances of the present case. He further submits that as per the amendment caused by the Haryana Government in the Court Fees Act, his client is willing to pay ten times of the land revenue vis-a-vis the sale deed.

Mr.Arvind Kashyap, learned counsel appearing on behalf of the respondents submits that there is no illegality and perversity in the impugned order. The trial Court has rightly directed the petitioner-plaintiff to pay the ad valorem court fees as the sale deed has been effected by the father in favour of the defendants and since the plaintiff has stepped into the shoes of the father, therefore, he is also liable to pay the ad valorem court fees.

I have heard the learned counsel for the parties and appraised the paper book.

The Hon'ble Supreme Court had an occasion to interpret the provisions of Section 7(iv)(c) of the Court Fees Act, 1870, wherein it has been held that the court fees payable in regard to the prayer for declaration

that the sale deeds were void and not binding on the party with a consequential relief of injunction, the party should not be liable to pay the court fees as per the provisions of clause (v) of Section 7, but as per the clause (iv) of Section 7. Since the Haryana Government has already caused an amendment in the Court Fees Act, therefore, the petitioner would be liable to pay the court fees, i.e., ten times of the land revenue. There is no force in the argument submitted by the learned counsel for the respondents that the suit tantamounts to cancellation of the sale deed and, therefore, the plaintiff was/is liable to pay the ad valorem court fees.

In view of what has been observed above, the impugned order is set-aside. It is directed that the petitioner-plaintiff shall pay the court fees, i.e., ten times of the land revenue within a period of one month from the date of receipt of certified copy of this order. Thereafter, the trial Court shall decide the matter in accordance with law.

At this stage, learned counsel for the petitioner makes a statement after seeking instructions from his client that the suit has been dismissed on merits, though the appeal is pending adjudication.

The revision petition is accordingly disposed of.

September 29, 2015
ramesh

(AMIT RAWAL)
JUDGE