

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

**CR No.4261 of 2012 (O&M)
Date of decision: 26.11.2015**

Sanjeev Kumar and another

... Petitioners

versus

Harnek Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Namit Gautam, Advocate for the petitioners.

Ms. Vandana Malhotra, Addl. Advocate General, Punjab.

K.Kannan, J.

The plaintiff who sued for the relief that an agreement of sale ought to be rendered as having been cancelled was resisted by the defendant as liable for rejection on the ground that *ad valorem* Court fee had not been paid on the value of the property covered under the agreement.

Admittedly, there is no prayer for recovery of possession. There have been no transfer of title under the agreement and the declaration that the agreement must be taken as cancelled would not under any circumstance require Court fee to be paid on the value of the property as mentioned in the agreement.

The counsel for the petitioners points out to me a judgment, N.N. Estate Private Limited Vs. Surinder Goyal, (2011 (3) PLR 140, which took a contrary view. I am afraid I may not be able to agree with the decision for the Court has applied the judgment in Suhrid Singh @ Sardool Singh Vs. Randhir Singh, 2010 (2) RCR (Civil) 564, that expressly dealt with the effect of cancellation plea in a suit where there was also a prayer for recovery of possession. We do not confront such a situation here. Yet another reference in the said judgment is to

Niranjan Kaur Vs. Nirbigan Kaur, (1982) PLR 127 (FB), that dealt with the duty of Court to look through the pleadings and find the actual character. Consequential relief on cancellation of the document could itself be a needless surplusage and therefore the Court has to see the essence of the relief in the suit. The said judgment considered the effect of the cancellation of the sale deed which is not the same thing as cancellation of an agreement, for, a sale constitute a transfer of title while an agreement does not. The decision was also a suit relating to cancellation of a sale deed as having been brought about the result of the fraud and other vitiating circumstances. The said judgment will also not apply to a case involving the declaration that an agreement has stood cancelled by non-fulfilment of the obligations. The Court was also making further reference to the judgment of the Hon'ble Supreme Court in Surya Dev Rai Vs. Ram Chander Rai 2003(6) SCC 675 that considered the extent of supervisory jurisdiction exercised by the Court. It will have no relevance for our purpose. The Court fee paid is correct and it would require no intervention.

The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

26.11.2015

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