

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

**Civil Revision No.5043 of 2015 (O&M)
Date of Decision: August 11, 2015**

Kulwinder Kaur

.... Petitioner

vs.

Shamsher Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vikas Mehsempuri, Advocate for the petitioner.

- 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)

The petitioner, who is defendant in civil suit before the Civil Judge (Jr. Divn.), Patiala, has challenged the order dated 06.02.2015 (Annexure P-4) passed by learned Civil Judge (Jr. Divn.), Patiala, vide which his application under order 7 Rule 11 CPC for rejection of the plaint was dismissed.

Briefly stated that Shamsher Singh had filed a suit for declaration that sale deeds dated 29.04.2009 and 09.02.2010 are null and void and not binding of his rights. Permanent injunction was also sought. The present petitioner had sought rejection of the plaint on the ground that the advolerum court fee was not affixed.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

The trial court has taken into consideration the authority of Hon'ble the Supreme Court ***“Suhrid Singh @ Sardool Singh vs Randhir Singh and others”***, 2010(2) CCC 510 SC, wherein it was held that if a non executant wants to avoid the sale deed and he is in possession he has to sue for declaration that the deed is null or void and does not bind him or his share, then he has to pay merely a fixed court fees.

In the present case, the sale deed is between father and the son and no court fee was paid as it was a family transfer. Therefore, the trial court has taken the view that advolerum court fee is not required to be fixed.

Thus, I do not find any illegality or infirmity in the impugned order.

Accordingly, the present revision petition stands dismissed.

August 11, 2015
sarita

(KULDIP SINGH)
JUDGE