

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

**CR No.5121 of 2015
Date of decision: 13.08.2015**

Parmod Kumar and others ... Petitioners

Vs.

Hardev Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Kashish Garg, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the impugned order dated 17.07.2015 (Annexure P-4), whereby, the application filed by the petitioner-defendants under Order 7 Rule 11(b) of the Code of Civil Procedure on the premise, that respondents-plaintiffs had not paid the ad valorem Court Fee in the suit filed for declaration, has been dismissed.

Mr. Kashish Garg, learned counsel appearing on behalf of the petitioners submits that the relief of declaration as contemplated in the suit tantamounts the cancellation of sale deed, therefore, it would fall in the realm of provisions of Court Fees Act, 1870.

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

I am afraid the aforementioned argument of the learned counsel for the petitioner is not sustainable, for the reason that on going through the contents of the relief sought in the suit, respondent-plaintiffs had sought declaration of the sale deed on the premise that they are already in possession of the suit property, therefore, ad valorem Court fee was not required to be paid. For the sake of brevity, the claim sought in the suit reads thus:-

“Suit for declaration to the effect that:-

(A) registered Power of attorney Wasika No.639 dated 03.12.2008 attested by Sub Registrar, Bathinda in favour of Lalit Kumar defendant No.4 was got executed by Lalit Kumar defendant, from the plaintiffs, wrongly, illegally, fraudulently and by misrepresentation by alleging that the same is required to evict the tenants from the shops constructed on the premise measuring 221 sq. yards with old M.C.No.2312 and new M.C No.6170, situated in Mehna Chowk, Court Road, near Mithc Wala 'Mod' Bathinda.

(B) On the basis of the said power of attorney the said Lalit Kumar defendant No.4, has wrongly, illegally, fraudulently and by mis-representation and without the consent and knowledge of the plaintiffs has sold the land

measuring 82 sq yards of three shops out of the above said property as mentioned in the site plan Annexure -1 to his relatives defendants No.1 to 3 by mentioning wrong facts vide Registered Sale Deed dated 21.05.2009 bearing Wasika No.1307, attested with Sub Registrar, Bathinda, both the said documents are wrong, illegal and void and not binding on the plaintiffs

AND

For issuing permanent injunction to the effect that the defendants No.1 to 3 be permanently restrained from:-

- a) alienating the suit property as mentioned in the sale deed dated 21.05.2009 on which three shops were constructed along with the vacant land by sale, mortgage, gift, lease or in any other manner to any person or body or persons, as mentioned in the said site plan dated 16.10.2014 annexure -1.*
- b) To evict the tenants from the said property or to take possession of the demised shop forcibly or by any other way, by conspiring or colluding with the tenants;*
- c) To receive the rent from any of the tenants of the said premises as they have no right, title or connection with the said property.”*

On going through the relief, it leaves no manner of doubt that neither the relief of cancellation of sale deed as per schedule nor

any possession has been sought, thus, ad valorem court fee on the value of the property was not required to be paid. There is no illegality, much less perversity in the impugned order and the same has been passed in consonance with the provisions of law. The order under challenge is accordingly upheld.

There is no merit in the revision petition and the same is hereby dismissed.

(AMIT RAWAL)
JUDGE

August 13, 2015
savita