

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

C.R. No. 628 of 2015

Date of decision: 28.01.2015

Poonam Devi

....Petitioner(s)

Versus

Vikas and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ramesh Kumar Dhiman, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present revision petition is to the order dated 20.10.2014 (Annexure P-4) whereby, the application filed by defendant no. 4 under Order 7 Rule 11 CPC for rejection of plaint has been dismissed. The reasoning which weighed with the trial Court was that the sale deed dated 17.12.2007 and Mutation No. 1182 in favour of the petitioner was subject matter of challenge on the ground of fraud and misrepresentation. The trial Court noticed that the plaintiffs were not executants of the alleged sale deed registered in favour of the present petitioner and they were not bound to pay ad valorem court fees. Reliance was placed upon judgment of the Apex Court in *Surhid Singh @ Sardool Singh vs. Randhir Singh and others, 2010 (12) SCC 112*.

Counsel for the petitioner has vehemently submitted that joint possession has also been sought.

However, the said position has now been settled beyond an anvil of doubt by the Apex Court in *Surhid Singh's case (supra)* . Admittedly, the suit was based on the alleged sale deed executed by defendant no. 1 in favour of defendant no. 4 and the subsequent mutation.

The plaintiffs were claimed to be the owners in possession alongwith defendant no. 5 of the land in dispute and had fixed Court fees on the basis of valuation. The Division Bench of this Court following *Surhid Singh's case (supra)* in ***Tarsem Singh and others vs. Vinod Kumar and others, 2014 (1) ICC 1054*** has also held to the same effect that if possession is not claimed, plaintiff is not required to pay ad valorem Court fees. In similar circumstances, in ***Harinder Singh and others vs. Gurminder Kaur, 2012 (1) PLR 376***, this Court was pleased to dismiss the revision petition of the defendants wherein the application for rejection of plaint had been dismissed.

Accordingly, in such circumstances, no fault can be found in the well reasoned order passed by the Court below and the present revision petition is dismissed.

28.01.2015
shivani

(G.S. SANDHAWALIA)
JUDGE