

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.6148 of 2014

Date of decision: 01.12.2015

Smt.Harpreet Kaur

.....Petitioner

versus

Nirmal Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.G.S.Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate for the petitioner
Mr.Sarvprit Singh Gurna, Advocate for respondent
Nos.1 to 3 & 9

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)

In a suit for declaration and separate possession by way of partition and permanent injunction, defendants filed an application under Section 7 Rule 11 CPC in which, learned Civil Judge, Junior Division, Ludhiana, vide order dated 16.7.2014 has directed them to pay ad valorem Court fee.

Suffice to say that the plaintiff claims natural succession by challenging the Will. The lower Court has taken the view that declaration is sought that the Will is invalid, therefore, the Court fee is payable.

I am of the view that it will be a mixed question of fact and law as to which provision of the Court Fee Act is applicable in the

given circumstances. Therefore, at the very threshold, the plaintiff cannot be ordered to pay the Court fee.

Accordingly, the impugned order is set aside. The lower Court is directed to frame the issue on this point and allow the parties to lead evidence and after recording findings, pass an appropriate order along with other issues.

The revision stands allowed.

01.12.2015

gk

**(Kuldip Singh)
Judge**