

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

Civil Revision No.6553 of 2013

Date of decision:27.03.2015

Saroj V. Aggarwal and others

... Petitioners

versus

Ravinder Nath and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Tarun Seth, Advocate,
for Mr.Gurdial Singh Jaswal, Advocate,
for the petitioners.

None for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The revision petition is against the order disposing of an objection taken by the defendant that the plaint has not been properly valued. The plaintiff is seeking for a declaration that he is a joint owner of the property and that the sales effected in respect of the property on 24.03.2000, 18.06.2001 and 14.01.2004 are not valid. The contention of the defendant was that these sales effected much prior to the institution of the suit in the year 2009 and the purchasers are in possession. Mere declaration itself will not be competent and the plaintiff is bound to sue for recovery of

possession. The court, while considering the objection taken by the plaintiff that he was not a party to the transaction which he was assailing and that no ad valorem court fee need not be paid, held by making reference to the judgment of the Supreme court in **Suhrid Singh @ Sardool Singh Versus Randhir Singh and others-AIR 2010 (SC) 2807** that it was a case where the property was in possession of the defendant and he could not treat himself in any joint possession to claim a declaration. The court, therefore, observed that the suit even if he is not a party where possession becomes essential as relief, ad valorem court fee would require to be paid.

2. Even apart from the observation of the Supreme Court in **Suhrid Singh (supra)**, Section 34 of the Specific Relief Act itself provides that in the suit for declaration where the plaintiff seeks for a declaration of a particular legal status which the defendant denies, he will be required to ask for the consequential relief if it is capable of being sought for and that merely a declaratory action cannot lie. In this case, if the plaintiff is trying to assail the transaction of sale in the names of all the parties, the prayer that he should be treated as a joint owner cannot be made without a prayer for joint possession or the recovery of possession to the extent of the share which the plaintiff claims that he has. The consequential relief is necessary in such a case in terms of Section 34 of the Specific Relief Act. The

court's observations, therefore, that the plaintiff would have required to pay the ad valorem court fee was justified. I am not examining whether there is any government notification that allows for any concession as regards payment of court fee if the property is assessed to any revenue from the State, in which case, the valuation would be adopted in the manner directed under such notification. The petitioners will be at liberty to point out to the court of any special provisions relating to the manner of assessment of the value but I will find no error in the court directing the ad valorem court fee on the valuation of the property.

3. The civil revision is disposed of on the above terms.

(K.KANNAN)
JUDGE

27.03.2015
sanjeev