

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

CR No.6742 of 2015 (O&M).

Date of decision: 12.10.2015

Harpreet Kaur

... Petitioner

Vs.

Ranjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Gurna, Advocate, for the petitioner.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the impugned order dated 21.08.2015, whereby, application filed by defendants No.2 and 3, under Order 7 Rule 11 CPC, for rejection of the petitioner's plaint on the ground of non-filing of ad valorem Court fee, has been allowed and the plaintiff has been called upon to pay ad valorem Court fee.

Mr.S. S.Gurna, learned counsel appearing on behalf of the petitioner-plaintiff submits that since the property in dispute is agricultural land and plaintiff being not party to the sale deeds dated 20/21.03.2014, is not required to pay ad valorem Court fee on the sale consideration recited in the sale deeds. However, Court fee on the market value of the land, to be 10 times of the land revenue *vis-a-vis* relief of possession of agricultural land, and not by taking into consideration the actual market value of the suit land, would be paid.

In support of his aforesaid contention, he relied upon the judgments of this Court in **Hardam Singh vs. Angrej Singh &**

others 2014(1) Civil Court Cases 512 (P&H) and Gurshinder Singh vs. Pal Singh and others 2014(1) Civil Court Cases 796 (P&H).

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

The trial Court while allowing the application has observed as under:-

"I have heard learned counsel for the parties and carefully perused the file. Perusal of the file reveals that the plaintiff has filed the present suit seeking the relief of declaration to the effect that the sale deed dated 21.03.2014 executed by defendant No.1 in favour of defendant No.2 and sale deed dated 20.03.2014 executed by defendant No.1 in favour of defendant No.3 are illegal, null and void and has also sought the relief of possession along with the relief of permanent injunction. Now, the present application has been filed by defendant for directing the plaintiff to file the ad valorem Court fee. In this regard the legal preposition has been settled by Hon'ble Apex Court in the case Suhrid Singh @ Sardul Singh vs. Randhir Singh & others, 2010(2) CCC 510, that if a non-executant, is not in possession and he seeks not only a declaration that the sale deed is invalid but also the consequential relief of possession, he has to pay an

ad valorem Court fee as provided under Section 7(iv)(C) of the Court fee Act 1870.

In the present case too, the plaintiff has sought the relief of possession, but has not annexed the ad valorem Court fee. In view of the law laid down by the Hon'ble Supreme Court of India, the plaintiff is required to pay the ad valorem Court fee on the value of the suit property. Accordingly, application stands allowed and disposed off.”

On perusal of the aforementioned observations, it is irresistibly concluded that plaintiff has been called upon to pay the ad valorem Court fee *vis-a-vis* relief of possession by taking into consideration the market value of the land. The aforesaid finding, in my view, is not correct, as per settled law. Since the property allegedly sold vide sale deeds, *ibid*, plaintiff being not party to the same, is required to pay the ad valorem Court fee by taking into consideration 10 times of the land revenue of the suit land and not on the market value, as erroneously noticed, by the trial Court.

With the aforementioned modification in the impugned order, present revision petition is disposed of and the petitioner-plaintiff is directed to pay the ad valorem Court fee by taking into consideration 10 times of the land revenue of the suit land instead of market value.

October 12, 2015
savita

(AMIT RAWAL)
JUDGE