

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

107

**CR-6842-2015 (O&M)
Date of Decision-14.10.2015**

MOHINDER SINGH

Petitioner

Versus

JASWINDER KAUR AND ORS

Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashish Verma, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner/defendant seeks setting aside of order dated 25.08.2015 vide which application under Order 7 Rule 11 CPC has been dismissed by the trial Court.

[2]. Plaintiff filed a suit for declaration to the effect that plaintiff is owner in joint possession of 1/20th share of land measuring 299 kanals 13 marlas as shown in the plaint. Plaintiff has also challenged the sale deed dated 07.03.2014 executed by her father in favour of defendant No.1. Petitioner claims that an ad-valorem court fee is required to be paid on the plaint on the value of the sale deed. In the absence of such court fee, plaint is required to be rejected. By now it is a settled principle that if the executant of a document wants that document to be annulled in a civil suit, he is to seek cancellation of that document and to pay court fee on the consideration as shown in the document. But in case non-executant who seeks annulment of document on the

ground of his/her being not party to such document and if he/she seeks declaration that the document is illegal and null and void and is not binding upon his/her right then in that eventuality the party is required to pay fixed court fee as per Article 17 (iii) of the Second Schedule of the Act. It appears that the case of the plaintiff falls under this category because the plaintiff seeks declaration to the effect that she is owner in joint possession of the suit property to the extent of share as depicted in the plaint and the sale deed dated 07.03.2014 executed by her father in favour of defendant No.1 is illegal and null and void.

[3]. In considered opinion of this Court, no court fee is required to be paid because the claim is revolving around the declaration being non-executant of the document and relief of joint possession is a consequential relief.

[4]. In view of aforesaid, the impugned order is found to be fully justified and no interference is called for in the impugned order. This revision petition is accordingly dismissed.

October 14, 2015
prince

(RAJ MOHAN SINGH)
JUDGE