

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6780 of 2013 (O&M)
Date of Decision: 12.01.2015

Smt. Anita

...Petitioner

Versus

Smt. Neetu and others

...Respondents

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers 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?*

Present: Mr. Sachin Mittal, Advocate
for the petitioner.

R.P. Nagrath, J. (Oral)

Petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India seeking to set aside the order dated 08.03.2013 (Annexure P-2) passed by the trial Court dismissing the application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure.

Respondents No. 1 and 2 filed a suit against petitioner and respondent No.3 for declaration and consequential relief of permanent injunction claiming themselves to be owners of the land in question on the basis of sale deed dated 20.08.2007 executed by respondents No. 3 in favour of respondents No. 1 and 2.

Petitioner/defendant No.2 claimed that she has purchased the land measuring 01 Kanal 10 Marlas from respondent No.3-defendant No.1 vide sale deed dated 22.01.2008. The respondent/plaintiffs valued the suit for the purpose of Court fee and jurisdiction at ₹ 200/- upon which the Court fee was affixed on the plaint.

Petitioner filed an application under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint on the ground that the plaintiff/respondent Nos. 1 and 2 were required to pay advalorem Court fee on the sale consideration of the sale deed in favour of the petitioner executed by respondent No.3.

The learned trial Court declined the prayer made by the petitioner vide impugned order dated 08.03.2013.

I have heard learned counsel for the petitioner, perused the impugned order and the paper book.

The plaintiff-respondents have filed the suit for declaration without claiming the relief of possession as they were in possession of the disputed property. The plaintiffs are also not the executants of the sale deed in question. In view of the above, the order passed by the learned trial Court is in consonance with the principle laid down by Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564.**

In view of the aforesaid facts and circumstances, the observations of the trial Court are quite correct that advalorem Court

fee on the plaint was not required to be paid.

Dismissed.

12.01.2015
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(R.P. Nagrath)
Judge