

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

CR No.6938 of 2015

Date of Decision: October 16, 2015

Harminster Singh @ Sunny and another Petitioners

vs.

David Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ranjit Saini, Advocate for the petitioners.

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)

Impugned in the present revision petition is the order dated 03.10.2015 passed by learned Addl. Civil Judge (Sr. Divn.), Malout, vide which the application of the present petitioners-defendants filed under Order VII, Rule 11 CPC for the rejection of the plaint on the ground of non-payment of proper court fee, was dismissed.

It comes out that the petitioners-defendants claim that the ad valorem court fee as per the market value is not affixed on the ground that the sale deed has been challenged and in the alternative relief, possession of the suit has been sought. It further comes out that in the present case, the Will has also been challenged and as a consequential relief, the sale deed is also sought to be set aside.

It is a mixed question of facts and law as to whether the court fee is to be paid on the market value of the land, which is subject matter of the dispute?

It being so, the revision petition is disposed of with a direction to the lower court to frame issue regarding the court fee along with the other issues and allow both the parties to lead evidence on the said issues and thereafter decide the issue on merits as to whether the plaintiff is liable to pay ad valorem court fee on the valuation of the disputed property? The lower court after recording the entire evidence will first decide about the valuation of the court fee and thereafter, decide the other issues.

October 16, 2015
sarita

(KULDIP SINGH)
JUDGE