

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No.7117 of 2013

Date of decision : September 29, 2015

Manohar Lal

..... Petitioner

Versus

Such Ram

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Harkesh Manuja, Advocate for the petitioner.

Mr.Rajesh Pal, Advocate for the respondent.

1. Whether reporters of 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?

Amit Rawal, J (oral)

The challenge in the present revision petition is to the impugned order dated 06.11.2013 (Annexure P-4) whereby, the application filed under Order 7 Rule 11 CPC at the behest of respondent-defendant calling upon the plaintiff to affix ad valorem court fees has been allowed.

Mr. Harkesh Manuja, learned counsel appearing on behalf of the petitioner-plaintiff submits that the suit for declaration to the effect that the sale deed dated 17.12.2007 executed by defendant No.2 as General Power of Attorney of plaintiff in favour of defendant No.3 had been challenged in respect of land measuring 37 Kanals and 4 Marlas and vide impugned order, the plaintiff has been called upon to pay the ad valorem court fee as per provisions of Sub-clause 5 of Section 7 of the Court fees Act, 1870. He further submits that the Haryana Government has caused the amendment vide Act No.22 of 1974 whereby, if there is a challenge by a party to the sale

support of his contention, he has relied upon the judgment of this Court rendered in *Smt.Beena and Others Vs. Rajender Kumar and Others, 2006(2) RCR (Civil)449* and submitted that there is illegality in the impugned order.

Mr.Rajesh Pal, Advocate on behalf of respondents submits that the suit in the present case amounts to cancellation of the sale deed and therefore, the trial Court has rightly directed the plaintiff-petitioner to pay ad valorem court fee. Even otherwise the sale deed has been executed by the attorney tantamount to the sale deed at the behest of the plaintiff.

I have heard learned counsel for the parties and appraised the paper book.

The petitioner has sought to set aside the aforementioned sale deed by seeking a declaration. The fact remains that the sale deed has been executed by his attorney and therefore, the plaintiff is required to pay the Court fees being a party to the sale deed, in view of the amendment caused by the Haryana Government Act of 22 of 1974. In such a case, the plaintiff is required to affix the Court fees ten times of the revenue and not ad valorem Court fee which is duly supported by this Court in case of *Smt.Beena (supra)*.

In view of what has been observed above, the impugned order is set aside and revision petition is allowed. The petitioner-defendant is directed to pay the Court fees as per amendment caused by the Haryana Government vide Haryana Government Act No.22 of 1974, within a period of one month from the date of receipt of this order.

(AMIT RAWAL)
JUDGE

September 29, 2015