

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

CR No.7379 of 2013

Decided on: April 7, 2015.

Chandro

.... Petitioner

Versus

Randhip Mann and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Arun Singal, Advocate,
for the petitioner.

Mr. Maharaj Kumar, Advocate,
for respondent No.1.

Mr. Rohit Arya, AAG, Haryana.

M.M.S. BEDI, J (ORAL)

Petitioner-plaintiff being aggrieved by the order dated 13.11.2013 passed in an application filed by the defendants-respondents under Order 7 Rule 11 CPC, requiring the plaintiff-petitioner to affix ad valorem Court fee, has preferred the present revision petition.

The plaintiff-petitioner had executed a gift deed dated 06.12.2012 and got registered the same and transferred 5 kanals 14 marlas of land mentioned in the heading of the plaint in favour of the defendants-respondents. Plaintiff-petitioner has filed a suit for declaration that the gift deed dated 06.12.2012 regarding the suit land is null and void seeking consequential relief of permanent injunction to restrain defendant No.1 for interfering in the peaceful possession of the plaintiff.

The application under Order 7 Rule 11 CPC had been filed by the respondents on the ground that the deed sought to be challenged was actually executed by the plaintiff as such ad valorem Court fee is required to be affixed.

Counsel for the plaintiff-petitioner submits that the petitioner is not claiming possession as she is already in possession.

Learned counsel for the defendants-respondents has submitted that as per the averments in the gift deed, possession has actually been transferred to the defendants-respondents. As such the plaintiff would be required to affix ad valorem Court fee.

I have heard learned counsel for the parties and have gone through the plaint.

The plaintiff-petitioner claims herself to be in possession of the property in dispute though it is mentioned in the gift deed that possession has been delivered.

Perusal of the plaint indicates that petitioner is not claiming possession. A person, who is himself the executant of a deed, if seeks for cancellation of the deed, he is generally required to pay ad valorem Court fee for the consideration paid on the transfer deed but in the present case while executing the gift deed neither any consideration is alleged to have been received by the plaintiff, nor the plaintiff even claim possession of the property in dispute.

Taking into consideration the above said facts and circumstances I am of the opinion that the order passed by the trial Court requiring the plaintiff to pay ad valorem Court fee in terms of Section 7 (4) (c) of the Court Fee Act deserves to be set aside. It is held that the plaintiff-

petitioner is not required to affix the ad valorem Court fee on her suit. In this context a reference can be made to the judgment in **Surjit Singh Vs. Karamjit Kaur, 2012 (3), RCR (Civil) 364.**

The revision petition is allowed in the above terms.

(M.M.S. BEDI)
JUDGE

April 7, 2015
harsha