

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 894 of 2015

Date of Decision: March 12, 2015

Ashu Rani

.....Petitioner

Vs.

Ravinder Kumar Bansal and ors.

.....Respondents

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

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Present:- Mr.Deepak Aggarwal, Advocate
for the petitioner.

Mr. Rajesh Gupta, Advocate
for the respondent-caveator.

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

This is defendant's revision petition against the order dated October 16, 2014 dismissing the application under Order 1 Rule 11 CPC filed by the petitioner for dismissal of the suit of plaintiff- respondent No.1 against the defendant- petitioner and defendant- respondent No.3 on the ground of non-payment of proper Court fee.

I have heard learned counsel for the petitioner. Few facts which are relevant for the decision of the present revision petition which transpires

from the record are that Ravinder Kumar Bansal respondent No.1 filed a suit for declaration that he is exclusive owner in possession of land mentioned in heading of the plaint to the extent of 1/20th share as detailed in heading of the plaint and for a declaration that the sale deed dated October 25, 2012 executed by Sandeep Bansal (defendant No.2- respondent No.3) in favour of petitioner (defendant No.1) regarding land measuring 3 bigha 10 biswas out of the total land which is subject matter of the suit was illegal, null, void and nonest in the eyes of law besides seeking injunction pertaining to the said land to restrain the alienation or dispossession of said 3 bigha 10 biswas.

Learned counsel for the petitioner submits that as the declaration has been sought for by plaintiff- respondent No.1 challenging the validity of sale deed, the plaintiff would be required to fix the ad-valoram Court fee as per Section 7 (iv) (c) of the Court Fee Act, according to the amount at which the relief sought is value in the plaint. The application has been dismissed vide impugned order on the ground that the plaintiff-respondent No.1 was not a party to the sale deed and he is not claiming possession of the property.

After hearing counsel for the petitioner, I am of the opinion that the short question which is required to be determined in the present case is whether the plaintiff- respondent No.1 is required to affix the ad-valoram Court fee on the value of the property as he is challenging the sale deed executed by Sandeep Bansal as power of holder of his father Sat Pal Bansal in favour of his wife, who is defendant-petitioner. The transfer of the

property by Sat Pal Bansal through his son Sandeep Bansal in favour of his wife defendant- petitioner is a transfer amongst the family members and is exempt from the stamp duty. The plaintiff- respondent No.1 is also having a joint title in the subject matter of the suit besides this he is not claiming possession of the property which is subject matter of the sale deed dated October 25, 2012.

In view of the said circumstances, I do not find any infirmity in the order passed by the Court below. The petition is dismissed. However, it is observed that this order will not, in any manner, prejudice the rights of the parties in case plea of Court fee is raised in the written statement and an issue is framed on the basis of said plea.

March 12, 2015
sanjay

(M.M.S.BEDI)
JUDGE