

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

(222)

**CR No.994 of 2014 (O&M)
Decided on: May 12, 2015.**

Nirmal Singh

.... Petitioner

Versus

Balwinder Kaur and others

..... Respondents

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

Present: Mr. Amit Dhawan, Advocate,
for the petitioner.

Mr. Tribhuwan Singla, Advocate,
for respondents No. 1 and 2.

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

Defendant No.2-petitioner is aggrieved by the order dated 04.01.2014, dismissing the application under Order 7 Rule 11 CPC for rejection of the plaint on account of non-affixation of ad valorem Court fee in a suit for joint possession filed by the plaintiffs-respondents.

Admittedly, the parties are related to each other. The plaintiffs-respondents have filed a suit for joint possession of the land measuring 11 kanals 19 marlas being 2/5th share of land measuring 29 kanals 16 marlas mentioned in the heading of the plaint. The plaintiffs-respondents have challenged the validity of sale deeds dated 29.11.2004 and 16.06.2011 executed by defendant No.3 in favour of defendants No. 1 and 2.

The trial Court has dismissed the application on the ground that since joint possession of the suit property has only been claimed by challenging the sale deeds and actual physical possession has not been sought, the plaintiffs-respondents are not required to affix the ad valorem Court fee.

Learned counsel for the petitioner has contended that since the validity of registered documents has been challenged, the plaintiffs-respondents would be required to affix ad valorem Court fee. Counsel for the petitioner has relied upon judgment in **Tarsem Singh and others Vs. Vinod Kumar and others, 2014 (1) ICC 1054**, in support of his contentions that when declaration regarding validity of sale deed is prayed for, Section 7 (iv) (c) of the Court Fee Act would be applicable and that plaintiffs would be required to affix Court fee.

I have considered the contentions of learned counsel for the petitioner.

In the present case, perusal of the plaint indicates that Balwinder Kaur and Narinder Kaur daughters of Chanan Singh have challenged the validity of sale deeds executed by their father Chanan Singh in favour of Baldev Singh, his son, who has further alienated the suit property in favour of defendants No. 1 and 2. The sale deed in favour of blood relations is exempted from stamp duty. Besides this, the plaintiffs-respondents are not seeking actual physical possession of the property. They have only sought a declaration to the effect that they are owners to the extent of 2/5th share in the property in dispute, questioning the validity of the sale deeds, which have been executed amongst the blood relations without affixation of stamp duty.

In view of the said circumstances, the trial Court has rightly dismissed the application under Order 7 Rule 11 CPC of defendant No.2-petitioner.

No ground is made out for interference.

Dismissed.

(M.M.S. BEDI)
JUDGE

May 12, 2015

harsha