

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

**Civil Revision No.1455 of 2015
Date of decision : 05.04.2016**

Chandro

.....Petitioner

Versus

Randeep Maan

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Arun Singal, Advocate for petitioner.

Respondent proceeded against *ex parte*.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 11.02.2015 passed by the learned Civil Judge (Junior Division), Panipat, whereby the petitioner has been directed to affix the *ad valorem* court fees on the consideration of Rs.10,00,000/- as mentioned in the impugned gift deed.

2. Learned counsel for the petitioner contended that no consideration has been passed over by way of the impugned gift deed. He contended that another gift deed of the same date was earlier challenged. The trial Court had directed to affix the *ad valorem* court fees on the

market value of the suit property, but the said order was set aside by this Court in CR No.7379 of 2013 vide order dated 07.04.2015. He contended that as no consideration was mentioned in the impugned gift deed, the petitioner has also not claimed the relief of possession, so no *ad valorem* court fees was required to be affixed.

3. I have duly considered the aforesaid contentions.

4. In the present suit, the petitioner has challenged the gift deed dated 06.12.2012 bearing Vasika No.5348 executed by her in favour of respondent Randeep Maan with respect to the land measuring 01 Kanal 19 Marlas 3 Sarsai, situated in the revenue estate of village Ajijulapur, Tehsil and Distt. Panipat.

5. Earlier the petitioner has filed the suit challenging another gift deed of the same date *i.e.* 06.12.2012 bearing Vasika No.5349 executed by her in favour of Randeep Maan, who is respondent in the present case. So, that suit was also between the same parties. In the previous suit also, the gift deed was challenged. The learned trial Court has directed the petitioner to affix the *ad valorem* court fees vide order dated 13.11.2013 passed on the basis of application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 moved by the respondent. The said order was challenged by present petitioner Chandro by filing CR No.7379 of 2013, which was decided on 07.04.2015. In that revision petition, this Court has laid down as under:-

“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.

April 7, 2015

(M.M.S. BEDI)
JUDGE”

6. In the instant case also in the impugned gift deed, it is nowhere mentioned that any consideration has been exchanged. Only the value of the gifted property has been mentioned, which cannot be considered to be the consideration for the gifted property. The plaintiff is also not claiming the relief of possession, rather she is claiming herself to be in possession of the suit property and has sought the decree for permanent injunction.

7. Thus, in view of the judgment of this Court dated 07.04.2015 passed in CR No.7379 of 2013 between the parties on exactly the similar question of law and facts, the present revision petition is

hereby allowed and the impugned order dated 11.02.2015 requiring the petitioner-plaintiff to affix the *ad valorem* court fees, is hereby set aside.

05.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**