

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

**CR No.1948 of 2013
Decided on: 01.03.2016**

Jasbir Singh

....Petitioner

Versus

Ludhiana Improvement Trust and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Gurcharan Dass, Advocate
for the petitioner.

Mr. Rajesh Verma, Advocate
for Mr. Neeraj Sharma, Advocate
for respondents No.1 and 2.

Mr. Paras Talwar, Advocate
for respondent No.3.

REKHA MITTAL J. (Oral)

The present petition lays challenge to order dated 28.02.2013 passed by the Civil Judge (Junior Division), Ludhiana, allowing the application filed by respondent No.3 under Order 7 Rule 11 of the Code of Civil Procedure for rejection of plaint for failure of the petitioner/plaintiff to pay *ad valorem* Court fee on market value of the suit property.

Counsel for the petitioner would submit that the suit plot was allotted in favour of Sh. Mall Singh (since deceased) father of the petitioner by respondent No.1-Ludhiana Improvement Trust, Ludhiana. Sh. Mall Singh had already paid the entire amount

towards allotment money to the tune of Rs.30,400/-. It is further submitted that the petitioner, at best, can be called upon to pay Court fee on the allotment price of plot in question.

Another submission made by counsel is that the present application was filed by respondent No.1 after issues were framed and even examination of the petitioner as a witness. It is further submitted that the impugned order may be set-aside with a direction to the trial Court to frame a specific issue in regard to valuation for the purpose of Court fee and jurisdiction that may be decided by the Court at the time of final disposal of the suit after permitting the parties to adduce evidence in support of their respective contentions.

Counsel for the contesting respondent No.3 has supported the impugned order with the submissions that as the suit property is in possession of respondent No.3, on the basis of an agreement to sell executed by Sh. Mall Singh, the petitioner is liable to pay Court fee on the market value of the suit property as has been so held by the learned trial Court. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India ***“Suhrid Singh @ Sardool Singh vs Randhir Singh and others”***, 2010(12) SCC 112.

I have heard counsel for the parties, perused the records but find no merit in the petition.

It is an admitted position of the case that the property in dispute i.e. Plot No.239-A situated at village Threke, Rajguru Nagar, Ludhiana, is in possession of respondent No.3. As the petitioner has filed the suit for possession of plot in question, therefore, is liable to pay Court fee on the market value of the property as has been laid down by the Apex Court in ***Suhrid Singh @ Sardool Singh's case (supra)***. Counsel for the petitioner is not in a position to convince as to how controversy involved in the present case is not covered by the judgment passed by the Hon'ble Supreme Court. In this view of the matter, I do not find any error much less illegality in the impugned order as would call for intervention.

Accordingly, the petition is dismissed but the petitioners are allowed 30 days time to pay court fee in compliance of the order passed by the trial Court.

(REKHA MITTAL)
JUDGE

01.03.2016
yakub