

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2943 of 2016

Date of Decision.28.04.2016

Gurdarshan Singh

.....Petitioner

Vs.

Nachattar Singh and others

.....Respondents

Present: Mr. H.S. Dhandi, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The revision petitioner is aggrieved about the direction given by the court below to pay the ad valorem court fee on the market valuation of the sale which is sought to be set aside. The petitioner's contention is that the sale to which the transaction was brought about is obtained by fraud and therefore, the document is void. The argument is erroneous for a fraudulent transaction is only voidable and not void. The counsel refers to me a Full Bench decision of this Court in **Niranjan Kaur Vs. Nirbigan Kaur 1981 Vol. LXXXIV PLR 126**. The Court was holding that in deciding the nature of court fee, the allegation in the plaint has to be looked into. Mere astuteness in drafting the plaint will not be allowed to stand in the way of the Court looking at the substance of the relief asked for. In the case dealt with by Court in **Niranjan Kaur's** case (supra), the main relief in the suit was the cancellation of the sale deed and the Court was holding that it will not be covered by

Section 7(iv)(c) of Court Fees Act. That is precisely the point which I have made that the court fee will have to be paid as per Article 1 Schedule I on the market valuation and the ad valorem court fee has to be paid. The Full Bench ruling is actually against the point urged by the counsel appearing on behalf of the petitioner.

2. The counsel also refers to me a judgment of the Madhya Pradesh High Court in *Manzoor Ahmed Vs. Jaggi Bai and others 2010 (1) CCC 641*. When there is a decision of Full Bench of this Court on this point, there is no need for me to make any reference to the decision of Madhya Pradesh High Court.

3. The order already passed is sustained and the revision petition is dismissed.

(K. KANNAN)
JUDGE

April 28, 2016
Pankaj*