

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

CR No.3365 of 2016

Date of decision :17.05.2016

Pritam Singh and others

..... Petitioners

Versus

Kulbir Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Surinder Sharma, Advocate
for the petitioners.

- 1. Whether Reporters of 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.**

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 29.03.2016 passed by the learned Civil Judge (Junior Division), Jalandhar, whereby the second application moved by the petitioners-defendants under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short CPC), for rejection of the plaint has been dismissed.

2. Learned counsel for the petitioners contended that respondent-plaintiff has challenged the sale deeds on various grounds and mentioned the sale consideration as Rs.

24,40,000/- for each sale deed. Thereby, he has challenged the sale deeds for the sale price of Rs. 97,60,000/-. In the consequential relief, he has also sought the possession of one acre of land. The plaintiff has failed to affix the *ad valorem* court fees on the market value of the land as well as the value mentioned in the sale deeds challenged by him. Learned counsel for the petitioners contended that as the respondent-plaintiff has sought relief of possession, so he will be required to affix the *ad valorem* court fees as per Section 7(iv)(c) of the Court Fees Act, 1870 (for short Act). To support his contentions he has relied upon cases **Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Ors. 2010(2) R.C.R (Civil) 564, Tarsem Singh and others Vs. Vinod Kumar and others 2014 (1) ICC 1054, Sarwan Singh Vs. Sukhdeev Singh and others 2015(1) ICC 199, Bhalle Ram Vs. Tikka Ram 2015(1) ICC 520 and Surjit Kaur Vs. Tej Kaur and others 2015(3) R.C.R (Civil) 75**. Thus, he contended that the plaintiff-respondent is required to affix the *ad valorem* court fees as per the value of the suit property as mentioned in the sale deeds challenged by him.

3. I have duly considered the aforesaid contentions.

4. This fact is not disputed that plaintiff-respondent is not the executant of the sale deeds challenged by him. Those have been executed by some other person. From the perusal of the impugned order, it comes out that this was the second

application filed by the petitioner under Order 7 Rule 11 CPC by the petitioners on the same ground. While disposing of the first application, the learned trial Court had directed the plaintiff to affix the proper court fees as per correct value of the suit.

5. This fact is not disputed that the suit property involved in the present case is agriculture land. In **Suhrid Singh @ Sardool Singh's case (Supra)**, the Hon'ble Apex Court has laid down that where a non-executant is not in possession and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession he has to pay an *ad valorem* court fees as provided under Section 7 (iv)(c) of the Act. The Hon'ble Apex Court while concluding the judgment has further laid down that proviso to Section 7 (iv)(c) of the Act makes it clear that where the suit for declaratory decree with consequential relief is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7 of the Act. Then, while concluding the judgment, the Hon'ble Apex Court has laid down as under:-

“8. We accordingly allow these appeals, set aside the orders of the trial court and the High Court directing payment of court fee on the sale consideration under the sale deeds dated 20.4.2001, 24.4.2001, 6.7.2001 and 27.9.2003 and direct the trial court to calculate the court fee in accordance with Section 7(iv)(c) read with Section 7(v) of the Act, as

indicated above, with reference to the plaint averments.”

In the aforesaid concluding para, the Hon'ble Apex Court has directed the trial Court to calculate the court fees in accordance with Section 7(iv)(c) read with Section 7(v) of the Act.

6. As already mentioned, the suit property involved in the present case is agriculture land. This Court in case **Hardam Singh Vs. Angrej Singh and others 2014(1) R.C.R (Civil) 929** after taking note of case **Suhrid Singh @ Sardool Singh's case (Supra)** has laid down as under:-

“8. However, in view of Section 7 (v) of the Court Fee Act, 1870, plaintiffs are liable to pay court fee on ad-valorem value of the suit land for the relief of possession. The question to be determined, however, is as to what would be the market value of the suit land for this purpose. The trial Court has directed the plaintiffs to pay ad-valorem court fee on the market value of the suit land as per collector rates. However, there is no basis for order of the trial Court regarding collector rates of the suit land. On the contrary, according to Section 7 (v) of the Court Fee Act, 1870, in case of agricultural land, the market value shall be ten times the land revenue of the land. In the instant case also, the suit land is agricultural land.

9. Consequently, market value of the suit land has to be determined at ten times the land revenue thereof and on the value so determined, the ad-valorem court fee shall be payable. In addition to it, plaintiffs have to pay requisite court fee for the reliefs of declaration and injunction. It is ordered accordingly in modification of impugned order Annexure P-1 passed by the trial Court.”

In view of the aforesaid ratio of law, which is fully applicable to the controversy involved in the present case, in case of agriculture land, the court fees is to be affixed to be

calculated as per Section 7 (v) of the Act and not as per price of the land as mentioned in the sale deed.

7. This was the second application moved by the petitioners for raising the plea, which was against the settled proposition of law. So, the present revision petition without any merits, is hereby dismissed with Rs. 5000/- as costs to be deposited with the District Legal Services Authority, Jalandhar.

17.05.2016

S.khan

(DARSHAN SINGH)
JUDGE