

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

C.R. No.3398 of 2016

Date of Decision.13.05.2016

Krishan Kumar

.....Petitioner

Vs.

Subhash Chand and others

.....Respondents

Present: Mr. S.P. Arora, 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. In suit filed by the plaintiff contending that sale deed obtained by the defendant from persons who are not owners of the property and that on the basis of such a sale deed, the defendants are attempting to raise a construction which was obstructed the passage of the plaintiff, he sought for the relief that the sale deed is not valid and that they are not entitled to put any construction. A prayer in the application for rejection of the plaint was that under Order 7 Rule 11 CPC the plaintiff has not given any cause of action in the suit and that further the ad valorem court fee has not been paid on the market value of the property brought through a sale deed which is sought to be set aside.

2. I find that the plaintiff has stated that the construction which the defendant is proposing to raise would cause an obstruction to the passage and that I would understand as constituting sufficient cause

of action by the plaintiff for making a case. The counsel explains that the construction is being made with the approval of the Municipal Committee and therefore, there cannot be an objection. It is surely an objection on merits of the case and has nothing to do with the decision of rejection of the plaint.

3. There is also an objection regarding the court fee. So long as the plaintiff is not party to the transaction, there is no necessity for the plaintiff to pay ad valorem court fee on the market value. If there is a prayer for setting aside the transaction, it must be treated as euphemism for a transaction as not binding on the plaintiff, for the plaintiff is not bound by such payment of court fee. In such an instance, ad valorem court fee is not required to be paid for the prayer which is asked.

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

(K. KANNAN)
JUDGE

May 13, 2016
Pankaj*