

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

CR No. 3170 of 2014 (O&M)

Date of decision: February 17, 2016

Avneet Kaur Sidhu and others

...Petitioners

Versus

Gurdial Singh and another

...Respondents

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?**

Present: Ms. Reeta Kohli, Senior Advocate with
Ms. Guneet Babbar, Advocate,
for the petitioners.

Mr. Pawan Kumar, Senior Advocate with
Mr. Abhimanyu Batra, Advocate,
for respondent No.1.

K. KANNAN, J. (Oral)

1. The revision petitioners complain about the adequacy of court fee in the suit filed by the plaintiff to set aside the sale purported to have executed by the 4th defendant as power of attorney of the plaintiff. The contention is that the power of attorney as well as the sale are sham and brought about by fraud and coercion.

2. The plaintiff will be bound by the act of his power of attorney and if he had purported to have effected a sale, then it was essential to set aside the sale, Section 7 (1) (iv) of the Court Fees Act will not apply. This has been so stated in the Full Bench decision of this Court in Niranjan Kaur

Versus Niribigan Kaur 1982 PLR 127 that Article 1 of Schedule I will be

attracted and Section 7 (iv) of the Court Fees Act will not apply. It is not merely relief of recovery of possession that might require prayer for setting aside or payment of court fee. In every transaction where the plaintiff himself is a party or will be deemed to be a party, if he acted through a power of attorney, the transaction would require to be set aside. This has been clarified by yet another judgment of this Court in Iqbal Singh (dead) through L.Rs. Versus Lakhwinder Kaur and others 2015 (2) PLR 284 in an elaborate consideration of the entire case law on the subject.

3. The impugned order is set aside. There shall be a direction for the plaintiff to pay ad valorem court fee on the market value of the property as mentioned in the sale deed which is sought to be assailed in the plaint and the court fee is directed to be paid within six weeks from the date of receipt of copy of this order. If the court fee is not paid, consequences of Order 7 Rule 11 (b) of the Civil Procedure Code will be invoked by the trial court while passing appropriate order.

4. The revision is allowed on the above terms.

February 17, 2016
prem

(K.KANNAN)
JUDGE