

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3387 of 2014

Date of decision : May 16, 2016

Jagbir Singh

..... Petitioner

Versus

Baljeet and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Keshav Partap Singh, Advocate
for the petitioner.

Ms. Gaganjot Kaur, Advocate
for the respondents.

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?

Amit Rawal, J (oral).

The petitioner-plaintiff is aggrieved of the impugned order whereby application moved at the instance of the respondent-defendant under Order 7 Rule 11 CPC for rejection of the plaint for want of court fee has been allowed.

Learned counsel appearing on behalf of the petitioner submits that in pursuance to the General Power of Attorney defendant No.1 has misused the same by entering into a sale deed and gift deed in favour of defendant Nos. 3 to 7 i.e. wife and daughters when the petitioner-plaintiff was in jail.

He further submits that the act of an agent without authority of the principal would not be binding upon him, therefore, the sale deed cannot be said to have been executed by the principal i.e. plaintiff. The court fee as per provisions of Section 7 (IV), (Va)

has already been paid.

He further submits that without pre judice to the right in the pending revision petition, court fee of ₹1,47,000/- has stood paid and with regard to the same has shown to this Court certified copy of the order dated 20.8.2014.

Learned counsel appearing on behalf of the respondent submits that declaration sought in the plaint is for setting aside of the sale deed and gift deed. Even if the act done by an agent, would tantamount to be done by principal, rightly so the order has been passed and there is no illegality and perversity in the same, thus urges this Court for affirming the impugned order.

I have heard learned counsel for the parties, appraised the paper book and of the view that payment of court fee has been a matter of adjudication before various Courts and Hon'ble Supreme Court. As per the ratio decidendi culled out by Hon'ble Supreme Court of India in Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others 2010 AIR (SC) 2807 and reiterated by Division Bench of this Court in Minder and others Vs. State of Haryana and others 2014 (3) RCR (Civil) 563 in case of declaration seeking setting aside of the document by executant has been sought dehors of the fact that it was on behalf of the agent, on the basis of GPA, the said act would be on behalf of the executant, the court fee is required to be paid. The petitioner-plaintiff has already paid the court fee.

In the suit, there is a claim for joint possession also as the plaintiff has been called upon to pay the court fee with regard

to the instruments.

Once the order under challenge has been complied with, the impugned order does not call for any interference.

The civil revision stands disposed of.

(AMIT RAWAL)
JUDGE

May 16 , 2016
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