

**CM No.19667-CII-2016 in/and
Civil Revision No. 4344 of 2016**

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

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**CM No.19667-CII-2016 in/and
Civil Revision No. 4344 of 2016
Date of Decision: September 29, 2016**

GAUTAM POLY ENTERPRISES PVT LTD

-PETITIONER

VS

BALWINDER SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Vineet Chaudhary, Advocate
for the applicant-petitioner.

Mr.Naveen Sheokand, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

CM No.19667-CII-2016

Allowed as prayed for.

Civil Revision No. 4344 of 2016

Petitioner has assailed order dated 31.05.2016
passed by Civil Judge (Junior Division), Kharar vide which
plaintiff-petitioner was directed to affix *ad valorem* Court fee on

the valuation of the sale deed dated 13.02.2012.

Learned counsel for the petitioner contends that the plaintiff filed a suit for declaration challenging the sale deed dated 13.02.2012 on the ground that sale deed was executed by defendant No.5 fraudulently on behalf of the plaintiff. The sale deed was claimed to be illegal, null and void. Another sale deed dated 11.04.2012 was executed by defendant No.1 in favour of defendants No.2 to 4. That sale deed was also assailed in the suit.

Learned counsel for the petitioner further submits that defendants have already admitted the claim of the plaintiff and have made statement before the trial Court on 31.10.2015 and have also pleaded no objection in case suit of the plaintiff is decreed. The prayer of the petitioner is that the suit should have been decreed under Order 12 Rule 6 CPC.

At the time of issuance of notice of motion, following order was passed by this Court on 01.08.2016:-

“Learned counsel for the petitioner

contends that the plaintiff-petitioner has challenged the sale deed on the basis of fraud committed by defendant No.5-Kuldeep Singla. Plaintiff has not sought the relief of possession, rather claimed himself to be owner in possession of the suit land.

Notice of motion for 02.09.2016.

Payment of ad valorem court fee may not be insisted upon till the next date of hearing.”

Learned counsel for the petitioner contends that the petitioner-plaintiff has claimed the sale deeds to be a result of fraud where no consideration was passed over to the plaintiff. Petitioner is held to be in possession and has not sought any relief of possession, therefore, plaintiff is not required to affix *ad valorem* Court fee as ordered by the trial Court.

Having considered the submissions made by learned

counsel for the petitioner, I am of the view that since the sale deeds have been assailed on the basis of fraud, no possession has been claimed by the plaintiff in the suit. The defendants have admitted the case of the plaintiff in toto, therefore, on the basis of observations made by this Court in Harbans Kaur vs Amrik Singh @ Beer Singh, 2015(4) R.C.R (Civil) 770 and Surjit Singh vs Karamjit Kaur, 2012 (3) R.C.R (Civil) 364, the impugned order is set aside and revision petition is allowed.

**(RAJ MOHAN SINGH)
JUDGE**

September 29, 2016

jyoti Y.

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**