

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4464 of 2016

Date of Decision: 26.8.2016

Kamlesh and another

---Petitioners

versus

Ramesh Kumari and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Gobind Korla, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against order dated 12.5.2016 passed by the Additional Civil Judge (Senior Division), Meham whereby application filed by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure (in short "CPC") for rejection of plaint for want of payment of requisite court fee, has been dismissed.

Counsel for the petitioners would submit that though Ramesh Kumar respondent No. 1/plaintiff is not executant of the sale deed dated

17.5.2011 executed by defendant Nos. 1 and 2 namely Naresh Kumar and Smt. Sushila in favour of defendant Nos. 3 and 4 (petitioners herein) but he is liable to pay ad valorem court fee as he is not in possession of the suit land.

I have heard counsel for the petitioners, perused the paper book particularly copy of the plaint Annexure P-1, copy of the application filed under Order 7 rule 11 CPC and the impugned order.

Be that as it may, it is an admitted position of the case that the respondent/plaintiff is neither executant of the sale deed sought to be declared as null and void nor any consequential relief of possession has been prayed. On the contrary, the respondent/plaintiff has filed a suit for declaration to challenge the sale deed in question with consequential relief of permanent injunction. When the facts and circumstances of the present case are examined in the light of judgment of Hon'ble the Supreme Court **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, AIR 2010 SC 2807** and Division Bench judgment of this Court **Tarsem Singh and others vs. Vinod Kumar and others 2014(1)ICC 1054**, I find myself unable to accept the submissions of the petitioners that the respondent/plaintiff

is liable to pay ad valorem court fee on the sale consideration mentioned in the sale deed. That being so, no error much less illegality can be noticed in the impugned order, warranting intervention.

Dismissed in limine.

(Rekha Mittal)
Judge

26.8.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No