

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

CR No.4557 of 2015(O&M)

Date of decision:26.8.2016

Pal Singh

....Petitioner

VERSUS

G.S. Empires & Colonizers Pvt. Ltd. and others Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Punia, Senior Advocate with
 Ms. Harveen Kaur, Advocate for the petitioner.

 Mr. Sudesh Sahi, Advocate for respondent No.1.

REKHA MITTAL, J.

The present petition has been directed against order dated 01.05.2015 (Annexure P-1) passed by Civil Judge (Junior Division), Fatehgarh Sahib, whereby application filed by the petitioner for rejection of plaint for want of sufficiency of Court fee has been dismissed.

G.S. Empires and Colonizers Pvt. Ltd., Sirhind through its Directors has filed a suit for declaration that the plaintiff continues to be owner in possession of land measuring 28 kanals 3 marlas purchased vide sale deeds No.4195 and 4265 executed by defendant No.3 through his attorney- defendant No.4 and tatima/amended sale deeds No.562 dated 18.05.2009 and No.4265 dated 06.02.2008 whereby defendant No.1 wife of defendant No.2 has been mentioned to be owner of 3 kanals = 60/1180 shares and plaintiff to be owner of 9 kanals 3 marlas = 183/1180 shares out of 12 kanals 3 marlas of land and tatima/amended sale deed No.563 whereby defendant No.1 wife of defendant No.2 has been shown to be

owner of 3 kanals = 60/1180 shares and plaintiff to be owner of 13 kanals = 260/1180 shares out of 16 kanals of land to be illegal, null and void, fraudulent and without consideration. It has also sought consequential relief of injunction restraining defendant No.1 from alienating the land in question.

The instant application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') was filed for rejection of plaint with the plea that respondent/plaintiff has not affixed ad valorem Court fee on the tatima/ amended sale deeds sought to be challenged by the plaintiff, therefore, the plaint is liable to be rejected.

After having heard counsel for the parties and appreciating materials on record, the learned trial Court dismissed the application in view of its findings recorded in para 5 of the order impugned.

Counsel for the petitioner has submitted that as the tatima/amended sale deeds have been signed by Gurtejinder Singh, one of the then Directors of the plaintiff-Company, the plaintiff is deemed to be executant of the tatima/amended sale deeds, therefore, liable to pay ad valorem Court fee in the light of judgment of Hon'ble the Apex Court Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others AIR 2010 SC 2807.

Counsel for the contesting respondent, on the contrary, has supported the impugned order and the reasoning adopted by the trial Court.

I have heard counsel for the parties, perused the paper-book particularly copies of tatima/amended sale deeds made available during the course of hearing and order impugned.

The tatima/amended sale deeds were executed by the vendor – Jarnail Singh through his attorney Pal Singh. It has also been signed by Gurtejinder Singh, Director, G.S. Empires and Colonizers Pvt. Ltd. Sirhind. The tatima/amended sale deeds do not make reference to payment of any sale consideration or exchange of any money. Counsel for the petitioner has not disputed that as the original sale deeds were executed by the vendor, the tatima/amended sale deeds were also executed by the vendor/seller. That being so, I find myself unable to accept plea of the petitioner that the respondent/plaintiff is liable to pay ad valorem Court fee in the light of judgment in Suhrid Singh's case (supra). In view of the above, I do not find any error much less illegality in the order impugned warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed.

AUGUST 26, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no