

Civil Revision No.5166 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.5166 of 2016

Date of Decision:11.8.2016

Surjit Kaur

---Petitioner

vs.

Harjinder Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. KBS Mann, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against order dated 30.7.2016 (Annexure P-4) whereby application under Order 7 Rule 11 of the Code of Civil Procedure (in short "CPC") for rejection of plaint for want of payment of ad valorem court fee has been allowed and the petitioner/plaintiff has been directed to pay ad valorem court fee.

Counsel for the petitioner would contend that the petitioner has filed a suit for declaration that sale deed No. 142 dated 21.5.2014 in regard to land measuring 28 kanals 9 marlas, detailed in the plaint executed by

defendant No. 1 in favour of defendant No. 2 on the basis of forged and fabricated power of attorney dated 19.4.1996 is illegal, null and void and not binding upon rights of the plaintiff. Further relief has been sought for restraining interference in peaceful possession of the plaintiff from the suit land or dispossessing him on the basis of sale deed dated 21.5.2014. It is further argued that as the petitioner has raised a categorical plea that the power of attorney, basis of sale deed in favour of defendant No. 2 executed by defendant No. 1 is the result of fraud and forgery and the sale consideration purported to be received by defendant No. 1 from defendant No. 2 in view of the sale deed has not been passed over to the petitioner, the trial court has committed a serious error rather illegality in holding against the petitioner with regard to her liability to pay court fee on the sale consideration mentioned in the sale deed dated 21.5.2014. In support of his contention, he has referred to judgments of this Court ***Chandro vs. Randhip Mann and others, 2016(2) R.C.R.(Civil)1028, Joginder Singh vs. Kulwant Singh and others, 2015(5) Law Herald 4090, Harbans Kaur vs. Amrit Singh @ Beer Singh, 2015(4) R.C.R.(Civil) 770, Sanjay Rana vs. Sampat Singh and others, 2016(2) R.C.R.(Civil) 397, Gurnam Singh and others***

vs. Dev Raj and others, 2016(3) R.C.R.(Civil) 359.

I have heard counsel for the petitioner, perused the paper book and the judgments cited at bar

The learned trial court has held the petitioner to be liable to pay ad valorem court fee on the sale consideration mentioned in the sale deed by relying upon judgment of Hon'ble the Supreme Court of India ***Suhird Singh @ Sardool Singh vs. Randhir Singh, 2010(2) R.C.R.(Civil) 564.*** The petitioner has attacked the sale deed dated 21.5.2014 executed by her son on the basis of power of attorney dated 19.4.1996. The mere fact that the petitioner has raised allegation that the said power of attorney is the result of forgery or fraud is not sufficient to hold at this stage that the petitioner is not executant of the sale deed through her attorney holder. This apart, if the attorney has not handed over the sale consideration to the petitioner, she at best, can take recourse to appropriate proceedings for recovering the amount. The facts highlighted by counsel for the petitioner are not sufficient to exonerate the petitioner of her liability to pay court fee on the sale consideration mentioned in the sale deed as she is seeking cancellation of the sale deed deemed to be executed by her. In view of authoritative

enunciation of law laid down in *Suhird Singh @ Sardool Singh's case (supra)*, which later came up for consideration before the Division Bench of this Court in *Tarsem Singh and others vs. Vinod Kumar and others 2014(1)ICC 1054*, the petitioner cannot derive any advantage to her contention from the Judgments referred to by her counsel.

In view of what has been discussed hereinabove, finding no merit, the petition fails and is accordingly dismissed.

(Rekha Mittal)
Judge

11.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No