

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CR No.5386 of 2015  
Date of decision:14.07.2016

Makhan Singh

... Petitioner

Vs.

Avinash Kaur and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Parminder Singh, Advocate  
for the petitioner.

Mr. Baldev Singh Dhillon, Advocate  
for the respondents.

**AMIT RAWAL J.**

Petitioner-defendant is aggrieved of the impugned order dated 07.08.2015 (Annexure P-4), declining the application moved under Order 7 Rule 11 of the Code of Civil Procedure (hereinafter referred to as 'CPC') seeking rejection of the plaint for want of payment of ad valorem Court fees.

Mr.Parminder Singh, learned counsel appearing on behalf of the petitioner-defendant submits that in the suit, possession was sought and therefore, the respondent-plaintiffs were required to pay the ad valorem Court fees. Having failed to pay the same, application was moved but the same has erroneously been

dismissed. Even otherwise, the suit was barred by law of limitation as the mutation was sanctioned on 24.02.2007, whereas, suit has filed after 05 years. The reference was made to the judgment rendered by the Hon'ble Supreme Court in **Suhrid Singh @ Sardool vs. Randhir Singh and others 2010(2) CCC 510** and thus, there is illegality and perversity in the order under challenge.

Mr. Baldev Singh Dhillon, learned counsel appearing on behalf of the respondent-plaintiffs submits that relief sought in the suit is for joint possession for which no ad valorem Court fee is required to be paid. Had relief been for separate possession perhaps there would have been some force and thus, urges this Court for affirming the findings rendered in the impugned order.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Parminder. For the sake of brevity, prayer made in the suit is extracted herein below:-

*"It is therefore respectfully and most humbly prayed that the decree for declaration to the effect that impugned registration Will No.80 dated 12.01.2007 and mutation no.3052 dated 24.02.2007 of village Niwarsi Tehsil Thanesar District Kurukshetra and the impugned mutation no.395 dated 24.02.2007 of village Gharoula Tehsil Thanesar District Kurukshetra in the name of the defendant concerning the suit property mentioned in para*

*no.1 of the plaint above and all the revenue records of jamabandi and khasra girdawari based on the said will in favour of the defendant are all illegal, null and void, in operative, in affective, ultra vires based on fraud and misrepresentation of facts and are not binding on the rights of the plaintiffs and for declaration that the plaintiffs have inherited the suit property being real daughters of the deceased Jagdev Chand son of Sh. Gobind Ram son of Buta Singh r/o village Niwarsi Tehsil Thanesar District Kurukshetra and the plaintiffs are true legal owners of the suit property mentioned in para no.1 and its sub paras above with a decree for joint possession of the suit property mentioned in para no.1 and its sub paras above with a decree for joint possession of the suit property mentioned in para no.1 and the sub paras above, with permanent injunction a consequential relief restraining the defendant from alienating, selling, transferring, leasing, mortgaging any part of the suit property mentioned in para no.1 and its sub para of the plaint to any stranger(s) in any manner or forcibly and illegally and claiming any right or title and interest in the suit property in any manner, forcibly or illegally, may kindly be passed in favour of the plaintiffs and against the defendants with costs.”*

On perusal of the aforementioned prayer, it is evident that prayer for joint possession of the suit property has been sought. In view of the Indian Court Fees Act, ad valorem Court fees for joint possession is not required to be paid. The ratio decidendi culled out by the Hon'ble Supreme Court in *Suhrid Singh @ Sardool's case* (supra) do not apply to the facts and circumstances of the present case. As regards, suit being barred by law of limitation, there is no limitation for claiming the title. The petitioner shall be at liberty to take all the pleas in the written statement and lead evidence in support of pleas, if taken but not in the manner and mode as has been chosen. There is no illegality and perversity in the order under challenge, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**July 14, 2016**  
savita