

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5371 of 2016 (O&M)

Date of decision:23.08.2016

Ram Khiloni

... Petitioner

Vs.

Smt. Beerwati and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gorakh Nath, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned order dated 01.08.2016, whereby, an application moved at the behest of the respondent-defendants under Order 7 Rule 11 of Code of Civil Procedure calling upon him to pay the ad valorem court fees, as mentioned in the sale deed bearing no.1990 dated 04.09.2013 allegedly executed by him in favour of respondents No.1 and 2, has been allowed.

Mr. Gorakh Nath, learned counsel appearing on behalf of the petitioner-plaintiff submits that lis of court fees is between the Court and the plaintiff and the defendants have no role to play. He further submits that the ratio decidendi culled out by the Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh vs. Randhir Singh & others 2010 (2) R.C.R. (Civil) 564 S.C** does not applicable to the facts and circumstances of the present case. However, he relies upon the ratio decidendi culled out in **Sunil Kumar vs.**

Sheokaran Lal 2015(2) R.C.R (Civil) 385. There is no bar on the documentary jurisdiction and therefore, the Court fees can also always be paid at the initial stage and not at the threshold. The judgment relied upon by the trial Court is not applicable to the present case.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

Prayer clause in the suit reads thus:-

“16. That the plaintiffs therefore, most humbly prays that a decree for declaration to this effect that the sale deed dated 04.09.2013 executed in favour of defendants no.1 and 2 fraudulently without paying the total sale consideration may kindly be declared as null and void and permanent injunction restraining the defendants from dispossessing the plaintiff over the suit land and not to interfere into the peaceful possession of the suit land as detailed in para no.1 of the plaint in any manner, may kindly be passed in favour of the plaintiff and against the defendants with cost of the suit.”

The plaintiff is signatory of the sale deed. In view of the ratio decidendi culled out by the Hon'ble Supreme Court in Suhrid Singh's case (supra), the plaintiff is required to pay the ad valorem court fees vis-a-vis sale consideration and cannot avoid the same being signatory of the sale deed. The Hon'ble Supreme Court in the latest judgment has held that whenever an application under Order 7 Rule 11 of CPC is moved, the Court has to decide the same and cannot be kept pending and the suit can proceed

further. It is in this background of the matter, the trial Court decided the application, aforementioned.

In view of the aforementioned, I do not intend to differ with the findings rendered in the impugned order, much less, the same is perfectly fair, legal and justified.

No ground is made out for interference in the impugned order.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

August 23, 2016
savita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No