

Civil Revision No.5487 of 2014
Date of Decision: 17.5.2016

Dharm Singh

--- Petitioner

versus

Anita Aggarwal and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Tarun Dhingra, Advocate
for the petitioner

Ms. Harsimran Kaur, Advocate
for the respondents

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

Rekha Mittal, J.

The present petition has been directed against order dated 1.4.2014 (Annexure P-2) passed by the Civil Judge (Junior Division), Kurukshetra whereby application filed by the respondents/defendants under Order 7 Rule 11 of the Code of Civil Procedure (in short "CPC") for rejection of the plaint for want of payment of advalorem court fee on the sale deed challenged in the suit, has been allowed.

Counsel for the petitioner has submitted that as the petitioner has not prayed for any consequential relief in the suit and he is in possession of the suit property, he is not liable to pay advalorem court fee as has been held by the trial court.

Counsel for the respondents, on the contrary, has submitted that

as a matter of fact possession of the suit property is with the respondents and the petitioner did not pray for possession in order to avoid payment of advalorem court fee.

I have heard counsel for the parties, perused the records but find no merit in the petition.

The petitioner has challenged the sale deed dated 2.12.2010, admittedly executed by him but the same has been sought to be avoided on the ground of fraud. Keeping in view the enunciation of law laid down by Hon'ble the Supreme Court of India in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others 2010(2) Civil Court Cases, 510**, irrespective of the fact as to whether the plaintiff is in possession of the suit property or otherwise, he being the executant of the sale deed is liable to pay ad valorem court fee. That being so, I do not find any merit in contention of the petitioner that he is not liable to pay ad valorem court fee as he has not claimed any consequential relief.

For the foregoing reasons, finding no merit, the petition is dismissed.

(Rekha Mittal)
Judge

17.5.2016
PARAMJIT