

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5906 of 2015

Date of Decision: 07.04.2016

Mohit Kumar and Others

... Petitioner(s)

Versus

Bharat Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Ram Avtar Sheoran, Advocate
for the petitioner(s).

Mr. Mani Ram, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 3.8.2015, passed by learned Civil Judge (Junior Division), Bhiwani whereby petitioner/plaintiffs were directed to pay *ad valorem* court fee on the sale consideration of agreement of sale dated 28.1.2008.

Learned counsel for the petitioners submitted that the Court below wrongly held that present suit is a suit for possession by way of specific performance, whereas plaintiffs had filed a suit for

declaration to the effect that they are entitled to get the sale deed executed in respect of the suit land and for that purpose required court fee has already been affixed. In support of his arguments, learned counsel for the petitioners placed reliance upon the judgment rendered by this Court in ***Bant Singh v. Noble Trade Cone Pvt. Ltd. and Others 2014(1) PLR 713.***

Learned counsel for the respondents submitted that the Court below has rightly decided the controversy because the petitioners have infact sought decree for possession by way of specific performance of agreement of sale dated 28.1.2008 under the veil of decree for declaration along with consequential relief of permanent injunction and mandatory injunction. It simply amounts to astuteness in drawing the plaint and the same cannot be allowed to avoid the payment of court fee.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the court below has rightly decided the application under order 7 Rule 11 CPC because the petitioners had infact filed suit for specific performance of agreement of sale dated 28.1.2008, though merely because of jugglery of words, petitioner sought decree for declaration just to avoid the payment of court fee. The same is not permissible as per law. On these facts, the present case is distinguishable from the case of ***Bant Singh v. Noble Trade Cone Pvt. Ltd. and Others*** (*supra*). For all intents and purposes, the decree for specific performance of agreement of sale was sought and the Court below has rightly directed the

petitioners to affix the court fee.

In view of the discussion made above, present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

April 7, 2016
"DK"