

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5757 of 2014

Date of Decision: 06.04.2016

Bhim Sen

... Petitioner(s)

Versus

Sunil Sehgal and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 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. M.S.Bedi, Advocate
for the petitioner(s).

Ms. Promila Nain, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 3.7.2014, passed by learned Civil Judge (Junior Division), Ludhiana, whereby application filed under Order 7 Rule 11 CPC for rejection of plaint was allowed and plaintiff was directed to pay the *ad valorem* court fee.

Learned counsel for the petitioner submitted that the Court below has not considered the correct facts of the case. The main suit was filed by the petitioner for declaration to the effect that transfer

deeds dated 11.5.2012 and 19.3.2013 are null and void on the ground that the same was the act of fraud being committed by the defendants in connivance with each other. As the said transfer deeds have been challenged on the ground of fraud, petitioner cannot be asked to pay the *ad valorem* court fee. Learned counsel for the petitioner also submitted that the petitioner had not sought relief of possession and as such he was not required to pay the *ad valorem* court fee. But the Court below has not considered this aspect while passing the impugned order and as such order dated 3.7.2014 is liable to be set aside.

While arguing on this point, learned counsel for the respondents submitted that as petitioner is executant of the sale deed and as such he is certainly liable to affix the *ad valorem* court fee and the Court below has rightly passed the impugned order and present petition is liable to be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that as petitioner has sought declaration qua transfer deeds dated 11.5.2012 and 19.3.2013, he is certainly liable to pay the court fee on *ad valorem* basis. Such a view was taken by the Hon'ble Supreme Court in case ***Shamsher Singh v. Rajinder Prashad and Others 1973 PLJ 686*** and similar view was taken by this Court in case ***Chand Kaur v. Jagsir Singh and Another 2011(3) PLR 812***. Before this Court, petitioner has challenged the validity of the transfer deeds on the ground of fraud. The trial Court has rightly come to the conclusion that plaintiff is required to pay the requisite court fee on *ad valorem* basis as per sale

consideration in the sale deed referred to in the suit.

As per view taken by the Division Bench of this Court in ***Tarsem Singh and Others v. Vinod Kumar and Others 2014(1) ICC 1054***, if the executant of a document wants a deed to be annulled, he is to seek cancellation of the deed and to pay *ad valorem* court fee on the consideration stated in the sale deed and thus, the Court below has rightly passed the order under challenge.

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

(Shekher Dhawan)
Judge

April 6, 2016

"DK"