

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CR No.6230 of 2015(O&M)**

**Date of decision:10.5.2016**

Rameshi and another

....Petitioners

VERSUS

Rajender Parshad and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

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. Ashok Kaushik, Advocate for the petitioners.

Mr. Adarsh Jain, Advocate for respondents No.5 to 8.

\*\*\*\*\*

**REKHA MITTAL, J. (Oral)**

The present petition has been directed against order dated 13.08.2015 (Annexure P-4) passed by the Civil Judge (Junior Division), Palwal, whereby an application filed by respondents/defendants No.5 to 8 under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') for rejection of plaint has been allowed and the petitioners have been directed to pay ad valorem Court fee qua the sale deed dated 21.10.2011 executed in favour of the applicants by Rajender Parhsad and others.

Counsel for the petitioners would contend that the sale deed dated 21.10.2011 in favour of defendants/applicants came into existence during pendency of the suit, therefore, the same is hit by the principle of *lis*

*pendens* and, thus, need not be challenged in the suit or requiring the payment of ad valorem Court fee. It is further submitted that the petitioners have challenged the release deed executed by their father Dalip Singh in favour of defendants No.1 to 3- Rajinder Parshad and others. It is further argued that if the release deed executed by Dalip Singh is set aside, the sale deed executed in favour of defendants No.5 to 8 during pendency of the proceedings would automatically be set aside being a transfer *pendente lite*.

Counsel for the contesting respondents is fair enough to concede that the sale deed in favour of the applicants has been executed during pendency of the proceedings and they would be bound by the decision of the suit being transferee *pendente lite*. However, it is submitted that the petitioners have not paid ad valorem Court fee to challenge the release deed executed by Dalip Singh in favour of his sons.

I have heard counsel for the parties, perused the paper-book particularly the order impugned.

Be that as it may, the sale deed dated 21.10.2011 came into existence during pendency of the proceedings, therefore, the transferees under the sale deed would be bound by the decision in the suit. As the sale deed in question was not challenged in the original suit and has come into existence during pendency of the suit, the petitioners are not liable to pay ad valorem Court fee. The learned trial Court has committed a gross error rather illegality by directing the petitioners to pay ad valorem Court fee on sale consideration mentioned in the sale deed dated 21.10.2011. That

being so, the impugned order cannot be allowed to sustain and is accordingly set aside.

For the reasons afore-stated, the petition is allowed and the impugned order dated 13.08.2015 is set aside. The respondents may take recourse to appropriate proceedings in case they have any grievance to express with regard to non-payment of ad valorem Court fee on the release deed.

**MAY 10, 2016**  
'D. Gulati'

**(REKHA MITTAL)**  
**JUDGE**