

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

CR No.7670 of 2016 (O&M)

Date of decision : 16.11.2016

Ajmer

.....Petitioner

Versus

Sarti

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ranvir S. Chauhan, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision has been preferred against the order dated 15.09.2016 passed by the learned Civil Judge (Junior Division) Gohana, whereby the application moved by the petitioner-defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (hereinafter called the “CPC”) for making good the deficiency of the court fees has been dismissed.

2. I have heard learned counsel for the petitioner and have gone through the paper-book meticulously.

3. Learned counsel for the petitioner contended that the respondent-plaintiff has filed the suit for declaration to challenge the release deed dated 18.06.2014 executed by her and for the joint possession. He contended that the respondent-plaintiff was required to affix the *ad valorem*

court fees with respect to the relief of declaration claiming the cancellation of the release deed and also for the relief of possession. Thus, he contended that the learned trial Court has wrongly dismissed the application. He relied upon case ***Iqbal Singh (dead) through LRs. Vs. Lakhwinder Kaur and others 2015 (2) PLR 284.***

4. I have duly considered the aforesaid contentions.

5. The respondent-plaintiff has filed the suit for seeking a decree for declaration that she is owner in joint possession of 1/8th share of the agricultural land measuring 55 Kanal 3 Marla. She also sought the setting aside of the release deed No.1875 dated 18.06.2014 and the consequent mutation. She has further sought the decree for joint possession. This fact is not disputed that respondent-plaintiff is herself the executant of the release deed dated 18.06.2014. It is further an admitted fact that no consideration is mentioned in the impugned release deed. It is a fact of common knowledge that the release deed is only possible within the members of the family. Thus, in the impugned release deed it is nowhere mentioned that any consideration was exchanged for the transfer of the proprietary rights of the suit land. So, there can be no question to pay the *ad valorem* court fees on the value of the suit property. Reference can be made to case ***Surjit Singh Vs. Karamjit Kaur 2012(3) RCR (Civil) 364.***

6. The respondent-plaintiff has only sought the relief of joint possession in the suit. She is claiming herself to be in possession of the suit property and has not sought any consequential relief of possession. There can be no question of affixing the court fees for the relief of possession

which is not sought for in the plaint. Case ***Iqbal Singh (dead) through LRs. Vs. Lakhwinder Kaur and others*** (supra) relied upon by learned counsel for the petitioner is quite distinguishable on facts because in that case the sale deed executed by the petitioner through their power of attorney was challenged wherein the sale price was Rs.1,16,00,000/-, so naturally the plaintiff was required to affix the *ad valorem* court fees on the amount of sale consideration mentioned in the sale deed. But herein in this case, as already mentioned, no monetary consideration has exchanged the hands for executing the impugned release deed.

7. Thus, I do not find any merits in the present revision petition and the same is hereby dismissed.

16.11.2016
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No