

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

Civil Revision No.7798 of 2016
Date of decision: November 21, 2016

Rakesh Taneja ...Petitioner

Versus

Arun Anand & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Aditya Jain, Advocate for the petitioner.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 20.09.2016, passed by the trial court, whereby application u/o 7 rule 11 CPC filed by the petitioner has been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, the plaintiffs have challenged sale deed No.8688 dated 03.11.2010, executed in pursuance to the judgment and decree dated 23.12.2006 and therefore, *ad valorem* court was required to be paid by the plaintiffs. He relies upon judgment reported as ***Manjula Mittal alias Manju Rani vs. Sohan Lal and others, 2014 (1) R.C.R. (Civil) 83.***

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

Plaintiff/respondents No.1 and 2 filed a suit seeking declaration and permanent injunction for setting aside judgment and decree dated 23.12.2006, passed by the civil court as well as sale deed No.8688 dated 03.11.2010 executed in pursuance thereof. During

pendency of suit, instant application under Order 7 Rule 11 CPC was filed by the petitioner/defendant No.1 for dismissing the suit. The trial court dismissed the application, as it did not find any ground for rejection of the plaint. It observed that suit being for declaration and permanent injunction, plaintiffs were not required to pay *ad valorem* court fee. I find no infirmity with the order passed. A perusal of records shows that plaintiffs/respondents No.1 & 2 were not party to the suit, wherein judgment and decree dated 23.12.2006 were passed and as such, they are not required to pay *ad valorem* court fee. Prayer under Order 7 Rule 11 CPC has rightly been rejected by the court below. Judgment in *Manjula Mittal's case (supra)* is not applicable to the facts of the instant case as said case did not involve question of rejection of plaint on the ground of non-payment of *ad valorem* court fee. Present revision is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

November 21, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No