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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 382/2015 & C.M. No.7971/2015**
PARAMJEET KAUR

..... Petitioner

Through Mr. Sanjay Aggarwal, Adv.
versus

KAWALJIT SINGH KOHLI & ORS

..... Respondents

Through Mr. R.K. Trakru and Ms. Bala
Khattar, Advs.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **27.01.2016**

Order impugned before this Court is the order dated 22.11.2014 vide which the preliminary issued framed by the Trial Judge enlisted as under:-

“Whether the suit of the plaintiff has not been properly valued for the purpose of court fees and jurisdiction? OPD”
had been dismissed.

The present suit is a suit for declaration, possession and permanent injunction. The averments in the plaint disclose that the plaintiff has claimed himself to be the owner of property bearing NO. K-13, ground floor, Fateh Nagar, Village Tihar, New Delhi in terms of a registered sale deed dated 19.04.2005. The plaintiff got possession of the property and he remained in it for two months for the purpose of getting it repaired. The plaintiff let out the suit property to defendant No.1. He was not paying the rent regularly. Defendant No.1 in his written statement had disclosed that this property stood sold to defendant No.2 vide a sale deed dated

30.08.2006. Defendant No. 2 was subsequently impleaded. Defendant No. 2 had then sold this property to defendant No. 3 who has also been added as a party. This suit was subsequently withdrawn.

The present suit was thereafter filed impleading all the said persons as parties. The plaint which had initially been filed had been permitted to be amended. Para 18 has described the valuation for the purpose of jurisdiction and Court fee. The suit has been valued for the relief of possession, permanent injunction and mandatory injunction as Rs.2 lacs and ad-valorem Court fee has been paid. The prayer clause has sought a decree to the effect that the sale deeds executed subsequently i.e. dated 30.08.2006 and 29.12.2006 be declared null and void. A decree of possession and permanent injunction has also been prayed for.

The Trial Judge had rightly noted the position at law which is that it is only the averments which are made in the plaint which have to be considered to decide whether the valuation has been correctly effected by the plaintiff or not.

The settled proposition at law being that the question of Court fee has to be decided with reference to the averments which are made in the plaint; whether the case is governed under Section 7 (iv)(c) of the Court Fees Act or not; the vital test is whether the reliefs claimed for by the plaintiff are inter-dependent or whether one flows from the other. Where the reliefs are inter-dependent, the petitioner must give a consolidated valuation for the two reliefs but if they are independent, this is not the requirement.

The relief of possession claimed by the plaintiff in the instant

case clearly flows from the relief of declaration which is to the effect that the aforementioned sale deeds be declared null and void and he be granted possession of the suit property; it is consequential relief within the meaning of Section 7 (iv)(c) of the Court Fees Act. Since the computation of Court fee in suits falling under Section 7 (iv)(c) depends upon the value that the plaintiff makes in respect of his claim, it is necessary for the plaintiff to exercise this option and value the claim for the purpose of Court fee which will also determine the value for the purpose of jurisdiction.

The impugned order in this background suffers from no infirmity. Reliance by the learned counsel for the petitioner upon the judgment of the Apex Court reported as AIR 2010 SC 2807 Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Others is misplaced. The plaintiff is admittedly not an executant to the sale deed of which he is seeking a cancellation. In this judgment where the non-executant sought the annulment of a deed, he had to seek a declaration that the deed is invalid as has been done in the instant case. The suit of the plaintiff is clearly covered under Section 7 (iv)(c) of the Court Fees Act.

Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

JANUARY 27, 2016

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