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

Sr. No.111

**Civil Revision No.2067 of 2017
DECIDED ON: May 10, 2017**

MUKESH KUMAR AND ANOTHER

..PETITIONERS

VERSUS

KHARAK SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Arun Jindal, Advocate,
for the petitioners.

JASPAL SINGH, J.

Through the instant revision petition preferred under Article 227 of the Constitution of India, the petitioners have sought the setting aside of order dated February 14, 2017 (Annexure P-4) passed by the learned Civil Judge (Jr. Divn.) Hodal, vide which, an application moved by petitioners/plaintiffs under Order VII Rule 11 CPC has been partly allowed to pay ad valorem court fee.

2. Assailing the impugned order dated February 14, 2017, it has been argued with vehemence by learned counsel for the petitioners/plaintiffs

that the same is absolutely against the provisions contained in Order VII Rule 11 CPC as well as Section 7 of the Court Fee Act. In fact, petitioners/plaintiffs have not claimed the relief of possession and have only challenged two Sale Deeds dated May 29, 2009 registered on July 14, 2009 bearing Vasika No. 1533 executed by petitioners/plaintiffs Mukesh and Dharmender in favour of respondent/defendant No.1 as well as sale deed dated January 03, 2014 executed by respondent/defendant No.1 in favour of respondent/defendant No.2 on the ground that these sale deed dated May 29, 2009 was got executed by the respondent No.1 as security for the repayment of loan amount availed by the petitioners/plaintiffs from respondent No.1. Subsequently, respondent no.1 became dishonest as prices of the land have gone higher who further executed the sale deed in favour of respondent No.2. Since the sale deed dated May 29, 2009 has been challenged on the ground that the same was executed as a security for the repayment of the loan amount and further the petitioners/plaintiffs have not claimed relief of possession. Therefore, they are not liable to affix the ad valorem court fee as has been ordered by the learned trial court vide order dated January 10, 2017. Thus, the impugned order is not sustainable in the eyes of law and is liable to be set aside and in term the application deserves to be dismissed.

3. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioners/plaintiffs but finds the same to be without any legal and factual weight.

4. Undoubtedly, petitioners/plaintiffs have challenged the sale deed dated May 29, 2009 registered on July 14, 2009 bearing Vasika

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No.1533 on the ground that it was not executed by him with a view to alienate or transfer the suit property to respondent No.1 rather it was executed as a security just for securing the repayment of the loan amount of ₹8,00,000/- availed of by him from the respondent No.1. Admittedly, petitioners/plaintiffs are party to the sale deed dated May 29, 2009 registered on July 14, 2009. Even though, the relief of possession of the disputed property has not been claimed, the petitioners/plaintiffs are still obliged to pay the ad valorem court fee keeping in view the sale consideration recited in the sale deed under challenge. Thus, this court is of the considered view that there is no infirmity, illegality or perversity in the impugned order dated February 14, 2017 (Annexure P-4) and the same is absolutely in consonance with the settled proposition of law. It does not calls for any interference by this court.

5. In the light of what has been discussed above, this court does not find any merit in the instant petition. As such, the same is dismissed, whereby the impugned order dated February 14, 2017 (Annexure P-4) is upheld.

6. No order as to costs.

May 10, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No