

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3632-2017

Date of Decision:- 09.08.2017

Gurdarshan Singh and another

.....Petitioners

Versus

Kuldeep Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikas Gupta, Advocate, for the petitioners.

RITU BAHRI, J. (Oral)

Present revision petition under Article 227 of the Constitution of India for setting aside the order dated 16.02.2017 (Annexure P-1), passed by learned Additional Civil Judge (Sr. Divn.), Patti whereby an application under Order 7 Rule 11 CPC & 151 CPC, filed by the petitioners/defendants, has been dismissed.

As is evident from the record that learned Additional Civil Judge (Sr. Division), Patti, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, has dismissed the application filed by petitioners/defendants, by virtue of order dated 16.02.2017, which in substance is as under: -

“After hearing arguments of counsel for both the parties and after taking into consideration, the documents relied upon by both the parties and after going the relevant law relied upon by respondent/plaintiff, this Court is satisfied that applicant has filed the present application for rejection of plaint on the ground that plaintiff has not paid the ad-valorem court fee

because plaintiff has challenged two sale deeds in the present case. On the other hand, counsel for plaintiff has contended that plaintiff is not party to both the sale deeds and plaintiff has not executed both the sale deeds. Therefore, plaintiff is not entitled to pay any ad-valorem court fee. In support of above said arguments, counsel for plaintiff has relied upon authority by the Hon'ble Punjab and Haryana High Court titled as Ran Singh and Anr. Vs. Jain Narain 2011(2) Law Herald (P&H) 1119 in which it is clearly held when plaintiff is not party two sale deeds and he has only sought relief of declaration and injunction without claiming possession. Therefore, plaintiff is not entitled to affix ad-valorem court fee. Therefore, in view of the above said law, this court is also satisfied that plaintiff is not party to both the sale deeds which have been challenged by the plaintiff in the present case. Therefore, plaintiff is not entitled to pay any ad-valorem court fee and application has only been filed to delay the proceedings of the present case. Therefore, no direction given to plaintiff to pay the ad-valorem court fee and I do not find force in the argument of counsel for defendant No.2 and I do not agree the same. Therefore, application under Order 7 Rule 11 CPC stands dismissed.”

After hearing the learned counsel for the petitioners, going through the above-said judgment, this Court of the considered view that learned trial Court appears to have examined the matter in the right perspective and dismissed the application. Moreover, learned counsel for the petitioners did not point out any legal infirmity or illegality in the impugned order, so as to interfere, in exercise of revisional jurisdiction of this Court under Article 227 of the Constitution of India.

Since there is no merit in the present revision petition, therefore, the same is hereby dismissed as such.

August 09, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No