

C.R.No. 368 of 2017
Date of Decision: 30.10.2017

Kewal Krishan

---Petitioner

versus

Manoj Tewari and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Amit Jain, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 29.8.2016 (Annexure P-1) whereby application under Order 7 Rule 11 of the Code of Civil Procedure (in short “the Code”) for rejection of plaint has been dismissed.

Counsel for the petitioner would urge that respondent No.1/plaintiff is son of the petitioner and he has filed a suit for declaration claiming suit property to be joint Hindu family ancestral coparcenary property and has challenged sale deed dated 22.7.1987 executed by Smt. Ishwar Devi (grand mother of the plaintiff) in favour of the petitioner being illegal, null and void and not binding upon rights of the respondent/plaintiff. It is argued that the sale deed (Annexure P-5) bears signatures of respondent/plaintiff on behalf of the purchaser, therefore, the respondent/plaintiff is to be considered as an executant of the sale deed, thus, liable to pay ad valorem court fee in the light of enunciation laid down

by Hon'ble the Apex Court in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others AIR 2010 (SC) 2807.**

I have heard counsel for the petitioner, perused the paper book particularly the sale deed (Annexure P-5) and the order impugned.

Be that as it may, it is undisputed position of the case that the sale deed (Annexure P-5) sought to be challenged by the respondent/plaintiff was executed by Smt. Ishwar Devi who claimed herself to be owner of the land, subject matter of the sale deed. The mere fact that the respondent/plaintiff has purportedly signed the sale deed on behalf of purchaser would not be sufficient to term him as an executant of the sale deed and thus liable to pay ad valorem court fee in the light of what has been held by Hon'ble the Apex Court in **Suhrid Singh @ Sardool Singh 's case (supra)**. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention in exercise of supervisory jurisdiction of this court.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

30.10.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No