

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

**Civil Revision No.4946 of 2014  
Date of Decision: 02.11.2017**

**Manjit Singh**

**.....Petitioner**

**Vs**

**Prashant Goyal and others**

**....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Charanjit Sharma, Advocate  
for the petitioner.

Mr. Ajaivir Singh, Advocate  
for the respondents.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioner is aggrieved of order dated 02.07.2014 passed by the Civil Judge (Jr. Divn.) Ludhiana vide which application under Order 7 Rule 11 CPC for rejection of plaint was disposed of and the plaintiff/petitioner was directed to pay the court fee.

[2]. Brief facts are that the petitioner/plaintiff filed a suit for declaration to the effect that the alleged agreement to sell dated 27.11.2012 executed by the plaintiff in favour of defendant No.1 with regard to 1/4<sup>th</sup> share in the suit house was null and void,

without consideration, ineffective, an act of fraud and cheating. Permanent injunction was also sought to restrain the defendants from dispossessing the plaintiff from the suit property and also from alienating the same. Mandatory injunction was also sought for the return of alleged agreement to sell dated 27.11.2012 along with other documents.

[3]. Defendants/respondents filed an application under Order 7 Rule 11 CPC for rejection of plaint on the ground that the agreement to sell was challenged by the plaintiff by way of declaratory suit in which factum of payment and consideration was recited. Even if, the challenge was made on the basis of fraud, the plaintiff was required to pay the *ad valorem* court fee as per consideration mentioned in the instrument i.e. agreement to sell.

[4]. The value of property as per consideration mentioned in the agreement to sell was amounting to Rs.1,20,00,000/-. Plaintiff sought declaration for setting aside the said agreement to sell. Earnest money to the tune of Rs.35 lakhs was paid under the aforesaid agreement to sell. The declaration was sought on the basis of agreement to sell being a fraudulent act.

[5]. In view of law laid down in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010(2) RCR(Civil) 564,**

if the executant of a deed seeks cancellation of the same, he has to pay *ad valorem* court fee on the consideration stated in the instrument. Apparently, the plaintiff was the executant of agreement to sell and the suit was filed seeking to annul the agreement to sell by way of cancellation of the same. The ratio laid down in *Suhrid Singh @ Sardool Singh's case* (supra) was followed by the Division Bench of this Court in **Tarsem Singh and others vs. Vinod Kumar and others, 2011(31) RCR (Civil) 709.**

[6]. In **M/s N.N. Estate Private Limited vs. Surinder Goyal, 2012(5) RCR (Civil) 591** similar proposition arose and the Co-ordinate Bench of this Court held that the plaintiff had sought declaration that the agreement to sell executed by him was illegal, null and void. Such a challenge was held to be a prayer on behalf of executant of the instrument for annulling the same, therefore, the court fee was held payable on the consideration mentioned in the instrument.

[7]. The view expressed by the High Court in CR No.4067 of 2012 titled '*Dharam Singh and others vs. M/s Omax Construction Ltd.*', decided on 12.03.2015 in the context of not requiring payment of court fee in such a situation was over ruled by the Hon'ble Apex Court in CA No.8880 of 2015 arising out SLP(C) No.16313 of 2015 titled '*M/s Omax Construction Ltd. vs.*

*Dharam Singh and others* vide order dated 26.10.2015.

[8]. In view of above discussion, the controversy as on date requires payment of *ad valorem* court fee on the consideration mentioned in the instrument i.e. agreement to sell. Consequently, the impugned order dated 02.07.2014 is found to be in consonance with the legal requirement which cannot be faulted with. This revision petition is accordingly dismissed.

November 02, 2017

**(RAJ MOHAN SINGH)**  
**JUDGE**

*Atik*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No