

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6442 of 2015(O&M)
Date of Decision: 27.09.2017

Rajiv Gupta
Vs

.....Petitioner

Manju Aggarwal

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajesh Goyal, Advocate for
Mr. Pritam Saini, Advocate
for the petitioner.

Mr. Sanjiv Kumar Aggarwal, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 12.08.2015 passed by Civil Judge (Junior Division), Kurukshetra vide which application filed by the defendant/respondent under Order 7 Rule 11 CPC was allowed and the plaintiff was directed to make good the deficiency in Court fee within 15 days.

[2]. Learned counsel for the petitioner submitted that gift deed dated 23.12.2012 was assailed in the suit for declaration with consequential relief of permanent injunction. No possession has been sought, therefore, payment of *ad valorem* Court fee on the instrument is not required even in terms of ratio laid down in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564**. Apparently, the gift deed has been executed without consideration.

[3]. Learned counsel for the respondent submitted that the suit has been filed after the death of executant namely Satya Devi, therefore, the plaintiff became beneficiary of the gift deed and is liable to pay the *ad valorem* Court fee on the value shown in the instrument as per first principle of **Suhrid Singh @ Sardool Singh' case (supra).**

[4]. Having considered the submissions made by learned counsel for the parties, I am of the view that the gift does not involve any passing of consideration. Only averments in the plaint are to be seen at the time of consideration of application under Order 7 Rule 11 CPC.

[5]. In view of ratio laid down in **Suhrid Singh @ Sardool Singh' case (supra)** which was duly followed by this Court in **Narinder Kumar Vs. Naresh Kumar and others, 2011 (3) RCR (Civil) 298,** I deem it appropriate to set aside the impugned order dated 12.08.2015 passed by Civil Judge (Junior Division), Kurukshetra and direct the trial Court to proceed with the suit without insisting upon payment of *ad valorem* Court fee under the impugned order.

[6]. Disposed of accordingly.

September 27, 2017.

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No