

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

**CR No.8009 of 2014(O&M)
Date of Decision: 13.07.2017**

Smt. Saroj and anotherPetitioners

Versus

Jai Parkash (deceased) through LRs and others
... Respondents

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

Present:Mr. Kuldeep Tiwari, Advocate
for the petitioners.

Mr. Anil Shukla, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J.(ORAL)

[1]. The amendment of plaint was allowed by the trial Court vide order dated 30.10.2013. Vide order of even date i.e. today, CR No.588 of 2014 has been dismissed by this Court. Now the suit can be considered for relief of possession which has been introduced by the plaintiff on account of amendment in question. Thus, the suit is for declaration and possession with a consequential relief of permanent injunction.

[2]. For a relief of possession, the principles laid down in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564** are to be applied. Since, the plaintiff has sought declaration qua the sale deed dated 18.03.2010 and is not in possession as on date, the third principle laid down in **Suhrid Singh's case (supra)** would apply. If the executant of the sale

deed, seeks cancellation of the deed, he has to pay ad-valorem court fee on the consideration stated in the sale deed. If the non-executant, is in possession and sues for a declaration that the deed is null and void and not binding upon him, then he has to pay a fixed court fee of Rs.19.50/- under Article 17(iii) of Second Schedule of the Act, but if non-executant, is not in possession and he seeks not only a declaration qua the sale deed, but also seeks consequential relief of possession, then he has to pay an ad-valorem fee as provided under Section 9(iv) (c) of the Act, which provides that in a suit for declaration with consequential relief, the court fee shall be computed according to the amount at which the relief sought is valued in the plaint.

[3]. In view of the above, I am of the view that aspect has to be re-visited by the trial Court with reference to necessary calculations based on third principle as highlighted in **Suhrid Singh's case (supra)**. Consequently, the impugned order dated 11.07.2014 passed by Civil Judge (Junior Division), Kurukshetra is set aside. Trial Court is directed to assess the ad-valorem court fee strictly in consonance with the principles laid down in **Suhrid Singh's case (supra)**.

[4]. Disposed of.

13.07.2017

prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

: Yes/No

: Yes/No