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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1011 of 2017 (O/M)
Date of decision : 6.2.2018

Harbans Singh and others

..... Petitioners

Versus

Swaran Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. G.S. Punia, Senior Advocate, with,
Mr. P.S. Punia, Advocate, for petitioners.

Mr. G.S. Bal, Senior Advocate, with,
Ms. Manjeet Kaur, Advocate, for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 20.1.2017 (Annexure-P-1), passed by learned Additional Civil Judge (Senior Division), Malerkotla, vide which in a counter claim filed by defendants-petitioners, they were directed to make the payment of ad valorem court fee on the relief claimed by them, holding that primary relief for cancellation of agreement to sell cannot be considered to be governed by Section 7 (iv) (c) of the Court Fees Act, 1870.

I have heard the learned senior counsels for both the parties and have also carefully gone through the file.

It comes out that plaintiff-respondent had filed a suit for declaration that agreement to sell dated 15.3.2013 and other writings have the effect of terminating/cancelling the agreement to sell.

I am of the view that the court fee is to be payable as per the relief claimed in the counter claim. The relief is sought only for declaration. Whether defendants-petitioners succeed in obtaining the said declaration is a different thing. The merits of the case are also not to be considered. The effect of such declaration is also not to be considered. Since counter claim is only for declaration, therefore, court fee on the relief for declaration is to be paid, which has already been paid alongwith counter claim. The impugned order is accordingly found to be illegal and same is hereby set aside. Therefore, instant revision is allowed.

(KULDIP SINGH)
JUDGE

6.2.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No