

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

**Civil Revision No. 1973 of 2018(O&M)
Date of decision : 23.03.2018**

Mukhtiyar Singh

..... Petitioner

versus

Mahender Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Bhupender Singh Ghangas, Advocate
for the petitioner.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order whereby the objections filed by the respondent-defendants for payment of court fee in respect of suit filed by the plaintiffs claiming declaration that they are owners in possession of 90% of the suit property measuring 1 kanal 1 marla i.e. 605 square yards by challenging the sale deed dated 5.6.2008 and subsequent sale deeds dated 31.7.2008 and 3.11.2008 on the premise that the first sale deed dated 5.6.2008 was executed by all the plaintiffs themselves.

Mr. Bhupender Singh, learned counsel appearing for the petitioner submitted that when this sale deed has been challenged on the ground of fraud and misrepresentation, then court fee is not required to be paid as the suit is for declaration and not for possession. In support of his contention he has relied upon an unreported judgment of this Court in

CR No. 6874 of 2014, Krishan & another Vs. Santro Devi @ Santro and

another decided on 16.02.2016 which has been passed by relying upon the judgment of this Court in **Narinder Kumar Versus Naresh Kumar and others, 2011 (2) PLR 547**. He submits that in that case the nature of the suit was identical to this case as plaintiff was a party to the gift deed which has been challenged and urged this Court for setting aside the impugned order.

I have heard learned counsel for the parties and appraised the paper book and am of the view that once the petitioner had challenged the sale deed dated 5.6.2008 being time barred is liable to pay court fee. I was not made aware of the judgment of the Honble Supreme Court as noticed by the trial Court in **Suhrid Singh alias Sardool Singh v. Randhir Singh and others 2010(2) RCR(Civil) 564** which resulted into allowing the revision petition. My view cannot be said to be a judgment or order *in rem* but in *per incuriam* as the principle culled out in the judgment referred to above leave no manner of doubt that where a person is not even in possession but has challenged any registered instrument being a party, is required to pay court fee on the amount referred thereto.

In this view of the matter and as a fall out of the aforementioned ratio decidendi culled out in the above stated case, I find that there is no illegality or perversity in the impugned order and the same does not call for any interference by this Court.

Revision is dismissed.

(AMIT RAWAL)
JUDGE

23.03.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No