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

**Civil Revision No.2420 of 2018
Date of Decision: 12.09.2018**

KRISHAN LAL AND ANOTHER

.....Petitioners

Vs

PARHALAD SINGH AND ANOTHER

....Respondents

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

Present: Mr. Rishabh Gupta, Advocate
for the petitioners.

None for the respondents.

RAJ MOHAN SINGH, J. (Oral)

This revision petition has been preferred against the order dated 16.09.2017 and order of reconsideration dated 01.02.2018 passed by the Civil Judge (Jr. Divn.) Bathinda.

There is no representation on behalf of the respondents despite service. This case was taken up in the morning session also. None appeared at that time and the case was again taken up after lunch session. Despite the aforesaid two pass overs, none has come forward to represent the respondents.

In view of above, I proceeded to decide the present revision petition on merits.

Learned counsel for the petitioners submitted that the plaintiff has filed a suit for declaration claiming himself to be co-sharers in joint possession. In addition to that he has also sought cancellation of transfer deed dated 04.10.2013 executed by defendant No.1 in favour of defendant No. 3 and gift deed of even date executed in favour of defendants No.2 and 3. Plaintiff is not in possession, therefore, the case falls under 3rd principle of **Suhrid Singh @ Sardool Singh vs. Randhir Singh & Ors., 2010(2) R.C.R. (Civil) 564**, requiring the plaintiff to affix *ad valorem* court fee as per market value of the property.

I have considered the submissions made by learned counsel for the petitioners.

Since the plaint has been drafted in a clever manner seeking declaration to be a co-sharer in a joint possession and also to seek annulment of transfer deed and gift deed executed by defendant No.1, therefore, it has to be seen that for a declaration to be a co-sharer, plea of joint possession is inbuilt mechanism. Even if the joint possession is not claimed, simpliciter suit for declaration could have been hit by Section 34 of the Specific Relief Act.

In the instant case, in addition to the prayer for declaration and joint possession, the plaintiffs have also prayed for annulment of transfer deed and gift deed executed by

defendant No.1. Plaintiffs being not in possession are liable to affix court fee as per market value of the land. The position of law as explained in **Suhrid Singh @ Sardool Singh's** case (supra) is fully applicable to the facts of the present case.

In view of above, this revision petition is allowed. The impugned orders dated 16.09.2017 and 01.02.2018 passed by the Civil Judge (Jr. Divn.) Bathinda are hereby set aside. Normal consequences to follow.

September 12, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No