

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2466 of 2018
Date of decision:25.04.2018

Chamkaur Singh Deol and another ... Petitioners

Vs.

Gurpal Kaur Deol ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. N.S.Dadwal, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-defendants are aggrieved of the impugned order dated 12.01.2018, whereby, an application filed under Order 7 Rule 11 CPC for rejection of the plaint for non-payment of court fees in a suit for declaration challenging the transfer deed dated 17.12.2012 executed by defendant no.1 in favour of defendant no.2, has been dismissed.

Mr. N.S.Dadwal, learned counsel for the petitioner submits that though the suit is simpliciter for injunction challenging the transfer deed, ibid but the consequential relief of possession is inherent, for that court fees is required to be paid in view of the law laid down by this Court **Kuldeep Kaur Vs. Smt. Surjit Kaur and others 2015(5) RCR (Civil) 621**. The Court below has abdicated in rejecting the application. I have heard the learned counsel for the petitioners and appraised the paper book.

The claim in the suit filed by the respondent-plaintiffs reads as under:-

“Suit for declaration to the effect that the alleged transfer deed bearing wasika no.2269 dated 17.12.2012 registered with Sub Registrar Mullanpur Dakha in respect of agriculture land measuring 25K-12M comprised in khata no.795/835, khasra no.451/1/2(0-2), 70//18/3 (0-4), 19/2/2 (1-11), 20/3/2(1-0), 21/3/1(0-2), 22/1/1(0-4), 87//9(8-0), 12(8-0), 18/3(2-12), 19/1 (2-8), 23/1 (1-9) as per jamabandi for the years 2008-09, situated at village Khandoor Tehsil Mullanpur Dakha, Ludhiana executed by defendant no.1 in favour of defendant no.2 is fraudulent, illegal, null and void , ultra vires, sham, without legal necessity, without consideration document and a nullity not conferring any rights of ownership in favour of defendant no.2 and it does not effect the rights of maintenance of the plaintiff under the Hindu Adoption and Maintenance Act and the same is liable to be set aside and cancelled and further its implementation in the revenue record by way of sanctioning of mutation, on the basis of said transfer deed is liable to be set aside.

AND

a decree for permanent injunction restraining the defendants no.2 from alienating and creating further charge over the suit property in any manner whatsoever to anybody else, illegally,

forcibly and otherwise than in due course of law to the detrimental interest of the plaintiff on the basis of oral and documentary evidence.”

From the perusal of the aforementioned claim, it is evident that no relief of possession had been sought, therefore, there would be no requirement for payment of court fees on the value of the property. Concededly, the transfer deed, ibid has been executed by defendant no.1 in favour of defendant no.2, wherein, the plaintiff was not a party. The law with regard to seeking declaration challenging the document whereby the plaintiff being not a party, is no longer res integra, in view of the law laid down by the Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others AIR 2010 SC 2807.**

There is not dispute with regard to the ratio decidendi culled out by this Court in the aforementioned judgment cited by learned counsel for the petitioner but the facts noticed above are quite different.

The order of the trial Court dismissing the application is perfectly legal and justified and do not call for any interference.

Revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 25, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No