IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.304 of 2018
Date of Decision.29.11.2018

Sunny and another ....Appellants

Vs

Jaspal Singh and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sudhanshu Sharma, Advocate for
Mr. Chander Shekhar, Advocate
for the petitioners.

Ms. Navdeep Kaur, Advocate
for respondents No.1 and 3.

None for respondents No.2, 4, 5 to 10.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the order whereby application under Order 7 Rule 11 CPC submitted by the defendants calling upon the plaintiffs to pay ad valorem court fee on the basis of sale deed alleged executed by Jagga Ram in favour of respondent No.1 to 3 for a sum of Rs.5 lakhs has been allowed.

Learned counsel appearing on behalf of the petitioners-plaintiffs submitted that petitioners are not signatory to the sale deed and therefore, for seeking relief of declaration and possession with consequential relief of permanent injunction, ad valorem court fee as directed by the trial Court cannot be paid. In support of aforementioned submission, relied upon judgment rendered by Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh Vs. Randhir Singh (2010) 12 SCC 112***.

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Learned counsel appearing on behalf of respondent Nos.1 and 3 submitted that even court fee on possession is also required to be paid, which has not been paid.

I have heard learned counsel for the parties and appraised the paper book. Concededly the sale deed dated 23.11.2013 has not been executed by the petitioners and in view of the ratio decidendi culled by Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh***'s case (supra), once the declaration has been sought, he cannot be called upon to pay ad valorem court fee i.e. subject matter of consideration, referred to in the sale deed but since the relief of possession has been sought, petitioners cannot get rid from payment of ad valorem court fee. The impugned order is modified and confined to payment of court fee vis-a-vis relief of possession only.

In view of the aforementioned observations, the impugned order is modified to the above extent and the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

November 29, 2018
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No

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