

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.3040 of 2018

.....

Date of decision:8.5.2018

Kavita and another

.....Petitioners

v.

Gurpreet Singh and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Amit Kohar, Advocate for the petitioners.

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Inderjit Singh, J.

Kavita and Sukhvinder Kaur-petitioners/defendants No.2 and 3 have filed this civil revision petition against Gurdeep Singh and others-respondents/plaintiffs under Article 227 of the Constitution of India for setting aside the impugned order dated 15.3.2018 (Annexure-P.5) passed by the learned Civil Judge (Junior Division), Jagadhri, whereby application dated 11.4.2016 (Annexure-P.3) filed by the petitioners under Order 7 Rule 11 CPC for rejection of the plaint, has been dismissed with a further prayer that the application be allowed and suit of the respondents/plaintiffs is liable to be dismissed.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that Gurdeep Singh, Satpal, Joginder Singh, Baljinder Singh, Vikramjit Singh and Satinder Singh-plaintiffs (respondents herein) filed a suit against Jasmer Singh, Kavita and Sukhvinder Kaur for declaration to the effect that recital in the registered sale deed dated 5.2.2016 regarding the delivery of possession qua the land is null, void, act of fraud etc. and is not binding upon the rights of plaintiffs in any manner whatsoever with the consequential relief of permanent injunction restraining the defendants from dispossessing the plaintiffs from the above said land forcibly, illegally and unlawfully.

During the pendency of the suit, an application under Order 7 Rule 11 CPC for rejection of plaint was moved by defendants No.1. Learned counsel for the applicant submitted that the plaintiffs had filed the present suit for declaration and have challenged the sale deed dated 5.2.2016, but have affixed Court fee of ₹25/- only. Learned counsel for defendant No.1/applicant asserted that the plaintiffs are liable to pay Court fee as per market value of the suit land and, therefore, the plaint is liable to be rejected on account of payment of deficient Court fee.

On the other hand, learned counsel for the plaintiffs submitted that the plaintiffs had not challenged the sale deed, but recital qua delivery of possession in the sale deed. He submitted that the plaintiffs are already in possession of suit property being co-sharers and, therefore, they are not liable to pay the Court fee as per market value.

The learned Civil Judge (Junior Division), Jagadhri, after going through the record, dismissed the application by holding that as the sale

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deed has not been challenged and the challenge is only to the recital qua delivery of possession, therefore, the plaintiffs are not liable to pay the Court fee as per the market value of the suit property.

A perusal of the record as well as the impugned order shows that the order passed by the learned Civil Judge (Junior Division), Jagadhri, is correct and as per law and no illegality has been committed by the lower Court while passing the impugned order. A perusal of the record further shows that the plaintiffs had nowhere challenged the sale deed, rather their case is merely that the recital in the sale deed regarding delivery of possession is not binding upon them and they had asked for relief of permanent injunction that the defendants should not interfere in their peaceful possession and further that the recital in the sale deed being wrong, null and void. As the plaintiffs are not challenging the sale deed and only challenging the recital in the sale deed qua delivery of possession by asserting that the plaintiffs are in possession over the suit property, therefore, the plaintiffs are not liable to pay Court fee at the market value of the suit property. The impugned order passed by the lower Court is correct and as per law and no illegality has been committed by the learned lower Court while passing this order, which does not require any interference from this Court.

Therefore, finding no merit in this civil revision petition, the same is dismissed.

May 8, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No