

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

C.R. No.3596 of 2014

Gagandeep Kaur

....Petitioner

Versus

Kulwinder Singh and Ors.

....Respondents

Date of Order: 27.4.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Vinod S. Kaushal, Advocate for the respondents.

AMIT RAWAL, J (ORAL)

Petitioner is aggrieved of the impugned order dated 20.1.2014 passed by learned Addl. Civil Judge (Sr. Divn.), Phillaur whereby while disposing of the application of the respondents filed under Order 7 Rule 11 CPC for rejection of the plaint, the plaintiff-petitioner has been directed to pay ad valorem court fee.

Learned counsel for the petitioner submitted that the plaintiff had sought following reliefs:

- i) Declaration to the effect that the plaintiff is born from the lawful wedlock of defendant No.3-Gian Singh and Darshan Kaur (since deceased);
- ii) Declaration that transfer deed dated 23.11.2015 executed by Gian Singh in favour of defendant No.1 & 2 is null and void;
- iii) Declaration that the property is ancestral one and
- iv) Relief of permanent injunction against defendant Nos.1 & 2.

He submitted that once the trial Court has not specified the amount of ad valorem court fee to be paid, the impugned order is totally vague and sketchy. In a suit for joint possession, the plaintiff-petitioner can always be called upon to pay court fee qua his/her share only and

therefore prayed for setting aside the order.

Per contra, learned counsel for the respondent has duly supported the impugned order. He submitted that during the pendency of the revision petition not only the petitioner but said Gian Chand has also died. There were five co-sharers out of which three are daughters and two sons. No illegality or infirmity can be found with the reasoning of the trial court.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

From the reading of the prayer, it is clear that the petitioner has claimed relief of joint possession. At the best, he is required to pay ad valorem court fee viz-a-viz her share but it has not been specified vide the impugned order with regard to payment of court fee. The finding recorded in the impugned order in this regard can not be construed properly as to whether the payment of court fee is to be made on the entire price of the property, therefore the same is not sustainable. It was incumbent upon the trial Court to clarify the position.

In these circumstances, the impugned order dated 20.1.2014 is modified. It is clarified that the petitioner shall pay the ad valorem court fee qua her share only for the purpose of joint possession.

Revision petition stands disposed of with the above terms.

April 27, 2018
manoj

^(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No