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

CR No.4146 of 2018

Date of Decision: 04.07.2018

Soni Kumar and another

....Petitioners

Vs

Puran Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Parminder Singh, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioners have challenged the order dated 09.05.2018 passed by Civil Judge (Junior Division), Indri whereby the application filed by the defendant under Order 7 Rule 11 CPC for rejection of plaint was accepted and the plaintiffs were directed to deposit proper court fee as per market value of the suit property.

2. In view of **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010(2) RCR(Civil) 564**, if the non-executant of an instrument is not in possession of the suit property and he seeks not only declaration against the title but also seeks consequential relief of possession, he has to pay *ad valorem* court fee as per the third principle of said judgment

i.e. under Section 7 (iv) (c) of the Act.

3. The court fee will not be paid on the consideration mentioned in the sale deed rather it has to be paid on the basis of market value of the suit property calculated in the manner as provided vide Clause (v) of Section 7.

4. Plaintiff has to affix court fee as per value of the subject matter of the suit property and the same has to be calculated on the basis of market value.

5. The trial Court would be at liberty to assess the market value of the property on the basis of material on record and would thereafter direct the plaintiff to affix the requisite court fee.

6. Petitioners would be at liberty to seek extension of time in depositing the requisite court fee before the trial Court. In the event of filing such application, the same shall be decided sympathetically by the trial Court.

04.07.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. Whether speaking/reasoned | : Yes/No |
| 2. Whether reportable | : Yes/No |