

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

CR No.4683 of 2015
Date of decision : 25.01.2018

Swaran Kaur (deceased) through her LRs ...Petitioners

Versus

Joginder Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tribhuwan Singla, Advocate for the petitioners.

Mr. Rajat Garg, Advocate for
Mr. Satish Goel, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The legal heirs of the plaintiff-petitioner is in the revision petition against the order directing the plaintiff to pay the ad valorem Court fees on or before 01.07.2015.

It is not disputed before me that the plaintiff is the Executant of the transfer deed dated 25.05.2011 and she is seeking cancellation thereof.

It is well settled that if a Executant is challenging the transfer deed executed by him/her, ad valorem Court fee is to be affixed. Reference in this regard can be made to the judgment passed by the Hon'ble Full Bench of this Court reported as *Niranjan Kaur Vs. Nirbigan Kaur, 1982 PLR 127*. Similarly, Hon'ble the Division Bench of this Hon'ble Court in the judgment *2014(1) ICC 1054, Tarsem Singh and others Vs. Vinod Kumar and others*, has held as under:-

“i) If the executant of a document wants a deed to be annulled, he is to seek cancellation of the deed and to pay

advalorem Court fee on the consideration stated in the said sale deed.

ii) But if a non-executant seeks annulment of deed i.e. when he is not party to the document, he is to seek a declaration that the deed is invalid, non-est, illegal or that it is not binding upon him. In that eventuality, he is to pay the fixed Court fee as per Article 17(iii) of the Second Schedule of the Act.

iii) But if the non-executant is not in possession and he seeks not only a declaration that the sale deed is invalid, but also a consequential relief of possession, he is to pay the advalorem Court fee as provided under Section 7(iv)(c) of the Act and such valuation in case of immovable property shall not be less than the value of the property as calculated in the manner provided for by Clause (v) of Section 7 of the Act.”

In view thereof, there is no scope for interference in the present revision petition. However, since the time granted by the Court to pay the court fee has elapsed, during the pendency of the revision petition, therefore, the petitioner is granted another one month time to pay the court fee from the date of receipt of certified copy of the order.

In view of the above, the present revision petition is dismissed.

25.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No