

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

126

CR No.8384 of 2016 (O & M)
Date of Decision:29.05.2018

Sandeep and others

...Petitioners

Versus

M/s Rangoli Built Tech. Private Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sushil Jain, Advocate
for the petitioners.

Mr. Rahul Garg, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court directing the plaintiff to pay ad valorem Court fee.

It is not in dispute that the plaintiff is a non-executant of the sale deed and, therefore, plaintiffs are not required to seek cancellation of the instrument in terms of Section 31 of the Specific Relief Act. Plaintiffs have merely filed a suit for declaration claiming that such sale deed dated 13.10.2005 would not affect their rights. This issue has already been examined by the Hon'ble Division Bench of this Court in the case of **Tarsem Singh and others vs. Vinod Kumar and others**, 2014 (1) ICC 1054.

In view thereof, no ad valorem Court fee is payable on the suit for declaration. However, learned counsel for respondent No.1/defendant

pointed out that possession of the property has been sought for and, therefore, Court fee is payable.

In the present case, in fact only joint possession has been sought for and under such decree physical possession of the property cannot be delivered.

In view thereof, even on the relief of joint possession, no Court fee is payable. In any case, the property is agricultural land and as per amendment in the Court Fees Act by the State of Haryana, for relief of possession, Court fee is payable as per the amendment in Section 4 (iv) as amended by Act No.11 of 1974 which was further amended Act No.2 of 1974.

In view thereof, the revision petition is allowed. Order under challenge is set aside.

29.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No