

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

**CR No.3981 of 2017(O&M)
Date of Decision: 14.03.2019**

Janta @ Janto

.....Petitioner

Versus

Dhanpati and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. S.P. Chahar, Advocate
for the petitioner.

Mr. Abhijeet Partap Singh, Advocate
for respondents No.2 to 7.

Mr. Rahul Makkar, Advocate
for respondent No.9.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 20.04.2017 passed by Civil Judge (Junior Division), Rohtak vide which application under Order 7 Rule 11 CPC filed by the defendants/respondents was allowed.

[2]. Admittedly, the plaintiff/petitioner is an executant of sale deed dated 27.06.2007, but according to the plaintiff, she did not sign the aforesaid sale deed, nor any consideration was

passed over to her. A plea of fraud was taken in the plaint.

[3]. In view of ratio laid down in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564**, if the executant of the sale deed seeks cancellation of the same, he/she has to affix Court fee on the consideration stated in the instrument i.e. the first principle of the said case.

[4]. The plea of fraud even if taken by the plaintiff cannot be answered in her favour on the strength of view expressed by the Hon'ble Apex Court in **CA No.8880 of 2015** arising out of **SLP (C) No.16313 of 2015** titled **M/s Omax Construction Ltd. Vs. Dharam Singh and others** decided on 26.10.2015. The view expressed in **CR No.4067 of 2012** titled **Dharam Singh and others Vs. M/s Omax Construction Ltd.** decided on 12.03.2015 was reversed by the Hon'ble Apex Court.

[5]. In view of aforesaid, the plaintiff being the executant of the sale deed cannot avoid payment of Court fee on the consideration shown in the instrument in view of ratio laid down in **Suhrid Singh @ Sardool Singh's case (supra)**.

[6]. For the reasons recorded hereinabove, I find no justification to interfere in the impugned order dated 20.04.2017 passed by Civil Judge (Junior Division), Rohtak. This revision petition is accordingly dismissed. The time granted by the trial Court for making good the deficiency in Court fee is extended by

two months from the date of receipt of certified copy of this order.

14.03.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No