

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

**C. R No. 5233 of 2016
Date of decision : 25.07.2019**

Major SinghPetitioner
versus

Gurwinder Kaur ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raman Mohinder Sharma, Advocate
for the petitioner.

RITU BAHRI, J. (Oral)

C.M. No. 14454-CII-2016

Application is allowed as prayed for.

Accordingly, Annexure P-6 is taken on record.

C.R. No. 5233-2016

Challenge in this petition is to order dated 15.07.2016
(Annexure P-7) passed by learned Addl. Civil Judge (Sr. Divn.) Sangrur
whereby an application filed by the respondent/defendant under Order 7
Rule 11 (c) CPC for fixation of proper Court fee has been allowed.

This Court on 17.08.2016 passed the following order:-

*“Contends that in the suit seeking declaration, i.e., owner
in possession of land measuring 31K-18M with a further prayer
for changing the transfer deed dated 9.9.2009 in favour of
Gurwinder Kaur had been challenged and the transfer deed was
without consideration yet the Court below on the application
moved by the respondent called upon the plaintiff to pay the
court fee on the market value of the suit property. He further*

submits that he could have been called upon to pay the court fee vis-a-vis the value mentioned in the transfer deed whereas the transfer deed was without consideration.

Notice of motion for 29.11.2016.

In the meantime, operation of the impugned order is stayed till further orders. It will not preclude the lower court to proceed with the trial.

Learned counsel for the petitioner submits that the suit filed by the petitioner/plaintiff has been decreed in his favour, vide judgment and decree dated 07.03.2017 (Annexure P-6) and he has been declared as owner and in possession of the land in dispute. The transfer deed No. 490 dated 09.09.2009 has been held to be null and void and was set aside. The suit for permanent injunction is also decreed. The defendant is restrained from alienating the suit property and interfering in the possession of the plaintiff over the suit property. The parties were given liberty to get the suit revived whenever the revision petition stands disposed off by this Court.

Learned counsel for the petitioner is relying upon judgment of this Court in a case of ***Harbans Kaur vs. Amrik Singh@ Beer Singh, 2015 (4) RCR Civil 770*** wherein in para 5 of the judgment, it has been observed as under:-

“In the present case, parties are closely related to each other as the respondent is the son of the petitioner. The case of the petitioner is that at the time of execution of transfer deed, no consideration had passed between the parties and the transfer deed in question was a result of fraud and misrepresentation. Petitioner has filed suit for declaration and has not sought the relief of possession. The present case is covered by the decision

given by this Court in Surjit Singh's case (supra). Hence, the petitioner was not required to affix ad valorem Court fee.

Applying the ratio of the above said judgments, the revision petition stands allowed and order dated 15.07.2016 (Annexure P-7) passed by learned Addl. Civil Judge (Sr. Divn.) Sangrur is set aside.

25.07.2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>