

CR-4992-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4992-2018 (O&M)

Date of decision : 16.01.2019

Meena and another

... Petitioners

Versus

Bina Devi

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rakesh Dhiman, Advocate
for the petitioners.

None for the respondent.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby the plaintiffs have been called upon to pay court fees.

Learned counsel for the petitioners submitted that the simpliciter claim in the suit was for challenging the sale deed bearing No.793 dated 16.05.2018 and mutation bearing No.9877 dated 01.06.2018. Concededly, the petitioner is not a signatory to the sale deed on the ground of fraud and misrepresentation as her husband Som Pal was stated to be missing, therefore, there was no occasion to execute the sale deed. In support of his contentions, reliance has been laid to the *ratio decidendi* culled out by Full Bench of this Court in **Niranjan Kaur vs. Nirbigan Kaur** **1982 PLR 127.**

There is no representation on behalf of the respondent despite

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service. Accordingly, I proceed to decide the revision petition on merits.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that the stand of the plaintiffs in the suit is that her husband-Som Pal, was owner in possession of the *gair mumkin* land and he had executed a transfer deed dated 19.09.2016 in her favour. He was stated to be missing since June 2017, whereas the sale deed, in question, had been executed in the month of May 2018 on the past-dated cheques. The facts and circumstances of the present case are squarely covered by the ratio decidendi culled out by the Full Bench of this Court in **Niranjan Kaur's case** (supra). The petitioners-plaintiffs are not required to pay ad valorem Court fee on the market value.

Keeping in view the aforementioned facts, the impugned order, under challenge, is not sustainable in the eyes of law, much less, suffers from illegality and perversity. The same is hereby set aside and the revision petition stands allowed.

16.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**