

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

CR No. 3303 of 2019 (O&M)
Date of decision: 29.05.2019

Sukhwinder Singh and another .. Petitioners

vs.

Kartar Kaur .. Respondent

Coram: Hon'ble Mr. Justice Amol Rattan Singh

Present:- Mr. Saurabh Bajaj, Advocate for the petitioners.

Amol Rattan Singh, J.

Despite the fact that learned counsel for the petitioners has cited a judgment of the Supreme Court in **Surhind Singh @ Sardool Singh v. Randhir Singh** AIR 2010 SC 2807, wherein of course the law is very clearly enunciated to the effect that if a person who is shown to be an executant of a deed, seeks cancellation of the deed (as he/she necessarily must in order to seek any declaration *qua a* suit property claimed by the respondent on the basis of such deed), yet, in the circumstances of this case, seeing that the respondent-plaintiff is 91 years old and is stated to be the grandmother of petitioner No.1, I am not at all inclined to issue notice of motion. However, learned counsel for the petitioners submits that the matter being between immediately family, it may be sent for mediation proceedings.

Whereas otherwise that prayer would not have been rejected, however, the respondent being 91 years old, it would actually amount to putting her to unnecessary trouble even to travel to Chandigarh.

Consequently, the respondent-plaintiff's contention being that a fraud has been played upon her by the petitioners (with the execution of the sale deed), I see no reason to interfere in the impugned order, with this petition consequently dismissed.

Any observation made herein above will be only in the context of this petition challenging the order passed by the trial Court, rejecting the application under Order 7 Rule 11 CPC filed by the petitioners (seeking rejection of the plaint on the ground that court fee *ad valorem* has not been paid), and no observation would be treated to be one made on the merits of the case.

May 29, 2019
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(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes/no
Whether reportable : Yes/no