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

**Civil Revision No.4411 of 2019
Date of Decision: 22.07.2019**

SHANTI DEVI

.....Petitioner

Vs

JITENDER AND OTHERS

....Respondents

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

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

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner seeks to assail the order dated 16.05.2019 passed by the Civil Judge (Jr. Divn.) Pataudi vide which the application under Order 7 Rule 11 CPC filed by the defendants was allowed.

[2]. I have considered the submissions made by learned counsel for the petitioner.

[3]. Admittedly the plaintiff has challenged the sale deed dated 13.10.2017 executed by her for a lawful consideration. The alleged consideration was paid in cash, through cheques and RTGS. Petitioner has challenged the sale deed on the basis of fraud as well.

[4]. In view of first principle of **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(2) RCR (Civil) 564**, if the executant of a sale deed seeks it to be annulled, he/she has to seek cancellation of the sale deed and in such eventuality he/she has to pay *ad valorem* court fee on the consideration shown in the instrument. Principle Nos.2 and 3 of the said judgment do not apply in such a situation.

[5]. Even in case of fraud, the Hon'ble Apex Court in **Civil Appeal 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 has held that in case of fraud, the plaintiff has to affix *ad valorem* court fee. The aforesaid order was passed in the said SLP(C) arising out of CR No.4067 of 2012 decided by the High Court.

[6]. In view above, there is no scope for interference in this revision petition. This revision petition is accordingly dismissed. However, keeping in view the prayer made by learned counsel for the petitioner, the petitioner may affix the requisite court fee within a period of three months from the date of receipt of certified copy of this order.

July 22, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No