

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 7699 of 2019 (O&M)

Date of decision : 3.12.2019

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Rajpal Singh and othersPetitioners

vs.

Sarabjit Kaur and anotherRespondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Lupil Gupta, Advocate for the petitioners.

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H. S. Madaan, J. (Oral)

In a suit filed for permanent injunction by plaintiff Sarabjit Kaur, the defendants had moved an application under Order 7 Rule 11 CPC for rejection of plaint due to non-affixing of ad valorem court fee, as per the sale deed challenged by her. That application was resisted by the plaintiff. The trial Court, vide detailed order dated 18.11.2019, rejected the application. Operative part of the order runs as under :-

“2. Case file perused and arguments considered.

The application is on the ground that the plaintiff has not affixed ad-volerem court fee as per sale deed challenged by the plaintiff. Perusal of file reveals that plaintiff Sarabjit Kaur has filed the present suit for declaration of sale deed No.1257

dated 10.06.1986 and its mutation, having been executed by someone in place of Harchal Singh misrepresenting as Achhal Singh, as wrong, null and void. Plaintiff has claimed Sub-sequential relief of permanent injunction regarding alienation. So it is clear that the plaintiff has filed present suit for annulment of sale deed allegedly executed by Harchal Singh. As per para No.4 of the plaint, the defendants are in possession of the suit land. So, the plaintiff is non-executant of the sale deed in question and is not in possession thereof. She has claimed relief of declaration and consequential relief also. In view of findings of Hon'ble Punjab and Haryana High Court in Om Parkash Vs Inderawati and others (2002) 3 CCC 263 and of Hon'ble Apex Court Suhrid Singh @ Sardool Singh Vs Randhir Singh & Ors Civil Appeal Nos.2811-2813 of 2010 decided on 29.03.2010, this court comes to conclusion that the plaintiff is required to affix ad-volerem court fee as per value of the property mentioned in the sale deed. Plaintiff has not affixed proper court. Finding of Hon'ble Chhatisgarh Raju Tiwari Vs Baishukhin Rai 2017 AIR Chhatisgarh relied upon by counsel for the plaintiff is not applicable in this case due to

different facts and circumstances. Accordingly, application in hand is allowed in the manner that the plaintiff is granted opportunity to affix ad-volerem court fee, as per sale deed, till 18.11.2019 failing which the plaint shall be deemed to be rejected.”

I have heard learned counsel for the revisionists, besides going through the record.

I find that the impugned order does not suffer from any illegality or infirmity. No ground is there to interfere therewith by exercising revisional jurisdiction by this Court.

Dismissed.

3.12.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No