

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CR No. 3555 of 2018(O&M)

Date of decision:30.04.2019

Richhpal Singh (since deceased) through LR's. and ors.

... Petitioners

Vs.

M/s Rangoli Buildtech Pvt. Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ram Pal Verma, Advocate for the petitioners.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 23.04.2018 whereby the application filed under Order 7 Rule 11 CPC by defendant no.1 for affixation of proper ad-valorem court fee on the valuation of the suit property, has been allowed.

Mr. Ram Pal Verma, learned counsel appearing on behalf of the petitioners submitted that the suit was filed for declaring the petitioners to be owners in possession of 1/3rd share by challenging GPAs bearing Nos. 362 and 364 dated 23.07.2005, which are illegal, null and void alongwith consequential relief of permanent injunction. Once the General Power of Attorneys are under challenge, any act done by the agents, cannot be the act of the principal. Therefore, the petitioners cannot be called upon to pay the ad valorem court fee in respect of the amounts mentioned in the sale deeds. Thus, the impugned order is not sustainable in the eyes of law.

There was no representation on behalf of the respondents despite service vide order dated 25.10.2018.

I have heard learned counsel for the petitioners and perused the paper book and am of the view that there is no force and merit in the submissions of Mr. Ram Pal Verma, counsel for the petitioners. No doubt the petitioners have objected the General Power of Attorneys but the sale deeds impugned have been executed by the agent duly represented by the executors as reflected in the same. It is correct that any act done by the agent is basically on behalf of the principal. The Full Bench of this Court in *Niranjan Kaur vs. Nirbigan Kaur, 1982 PLJ 127* as well as judgment of Hon'ble Supreme Court of India *in Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010 AIR SC 2807* held that a person, who wants to challenge the sale deed executed either by himself or by anyone, is required to pay the Court fee. The act done by the agent is basically on behalf of the principal and therefore cannot avoid payment of the ad valorem court fee alleging 3rd party. Once the challenge regarding genuineness of sale deeds is made, the court fees is required to be paid. The order under challenge cannot be said to be erroneous and there is no infirmity in the order impugned.

The revision petition is accordingly dismissed.

However, the period of one month time is granted to the petitioner to pay the ad-valorem court fee.

(AMIT RAWAL)
JUDGE

April 30, 2019
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Whether Speaking/Reasoned Yes/No
Whether Reportable Yes/No