

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.112

Civil Revision No.1879 of 2021 (O&M)
Date of Decision : September 10, 2021

Neelam Rani and others

...Petitioners

Versus

Balwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.S. Thakur, Advocate, for the petitioners.

SUDHIR MITTAL, J. (ORAL)

The petitioners are the defendants. Their application under Order 7 Rule 11 CPC has been rejected vide the impugned order. The plaintiff has sought a declaration that a particular sale deed allegedly executed by him is not binding on his rights as the same is a forged and fabricated document and has been executed by a power of attorney who had no authority to do so. The application has been dismissed by the trial Court by placing reliance upon *Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010 (12) SCC 112*. The trial Court has relied upon the observations of the Supreme Court that a person seeking a declaration that a sale deed is not binding on his rights need not affix ad valorem court fee with the plaint.

Learned counsel for the petitioners has submitted that the trial Court was in error in rejecting the application under Order 7 Rule 11 CPC. The judgment in *Suhrid Singh @ Sardool Singh (supra)* makes it abundantly clear that where the executant of a sale deed seeks the relief of

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cancellation thereof he/she has to affix ad valorem court fee. This is the exact situation in the instant case also.

It may be that the plaintiff is the executant of the sale deed and that he is seeking cancellation thereof. However, a reading of the plaint shows that his claim is that the sale deed has been executed fraudulently by a person who did not possess the authority to execute the same. Thus, the same is not binding on his rights. In fact, the plaintiff-respondent is seeking the relief of a declaration that the sale deed is not binding on his rights and thus, the observations of the Supreme Court in *Suhrid Singh @ Sardool Singh (supra)* have been correctly interpreted by the trial Court.

In view of the above, the revision petition has no merit and is dismissed.

September 10, 2021
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No