

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

Civil Revision No.2270 of 2021

Date of Decision: 11.10.2021

M/s Soni Promoters Pvt. Ltd. and others

... Petitioners

Versus

Sanjay Kumar Bansal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Mani Ram Verma, Advocate,
for the petitioners.

Mr. Shailender Singh Gill, Advocate,
for the caveator/respondent No.3.

ARUN MONGA, J. (ORAL)

Impugned herein is an order dated 23.08.2021 passed by the learned trial Court, whereby two applications, both under Order 7 Rule 11 CPC filed by the defendants (respondents herein) have been allowed. The objections raised therein that the suit is not maintainable for non-affixation of the requisite stamp duty on the plaint has been accepted.

2. Petitioners' Companies jointly filed a suit seeking declaration that they are owners in possession of the suit land situated at Mauja Hansi, Tehsil Hansi, District Hisar, *inter alia* on the basis of mutation nos. 10285, 10286, 10289, 10290, 10291 and 10368, which were entered and sanctioned on 22.11.2013, sale deed no. 6871 dated 20.01.2014 was executed in their favour, as more particularly stated in para No.7(A) of the petition herein. Further assertion is that vide a subsequent sale deed bearing *Vasika* No. 1299 dated 15.06.2017 executed by defendants No.1 and 2 in favour of

defendant No.3, the suit property could not have been sold. The plaintiffs are the real owners in possession. Sale deed dated 15.08.2017 is a result of fraud and mis-representation and not binding on the interest of the plaintiffs.

3. I have heard the rival contentions of learned counsel for the petitioners and learned counsel appearing on behalf of respondent No.3-caveator.

4. What transpires during course of the arguments is that the very sale deeds under challenge in the suit are also alleged to have been executed by the directors/representatives of the petitioners' Companies in favour of respondent No.3 herein (defendant No.3 in the suit).

5. On a Court query, learned counsel for respondent No.3 submits that the sale deed under challenge in the suit has been executed by defendants No.1 and 2 in their capacity as representatives of the petitioner-plaintiffs' Companies. The arguments of learned counsel for the petitioners that the said sale deeds are based on fraud and mis-representation can, therefore, only be adjudicated by way of a proper trial.

6. Be that as it may, without commenting on the merits of the either side, I am of the view that merely because the plaintiffs' companies claim themselves not to be executor of the sale deed in question, even though it is disputed question of fact, the same would not, in any manner, exempt them from the legal requirement to pay ad valorem court fee. For ready reference, relevant provision of Section 7 of the Court Fees Act, 1870 is reproduced hereinbelow:-

“7. Computation of fees payable in certain suits.- The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-

for money.-(i) XXX XXXXXX

for maintenance and annuities.- (ii) XXX XXX

for other movable property having a market-value.- (iii) XXX XXX XXX

(iv) *In suits-*

for movable property of no market-value.-

(a) *XXX XXX XXX*

to enforce a right to share in joint family property.-

(b) *XXX XXX XXX*

for a declaratory decree and consequential relief.-

(c) *to obtain a declaratory decree or order, where consequential relief is prayed,*

for an injunction.- (d) to obtain an injunction,

for easements.- (e) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts.- (f) for accounts-

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal;

In all such suits the plaintiff shall state the amount at which he values the relief sought”

7. A bare perusal of the aforesaid clause vis-à-vis the prayer in the suit makes it clear that ad valorem court fee on the valuation of the relief to seek declaration decree qua the suit property has to be paid. Prayer of suit is as below :-

“It is, therefore, prayed that a decree for declaration and injunction as prayed for, may kindly be passed in favour of the plaintiffs and against the defendants with costs in the interest of justice. Any other relief to which the plaintiffs are found or deemed entitled by this Hon’ble Court may kindly also be granted to them.”

8. In the premise, the applications moved by the defendants have, therefore, been rightly allowed by the trial Court by giving valid reason thereof. Relevant of the order impugned is as below :-

“7. Hence, after going through the authorities, this Court is of the view that the plaintiffs are required to affix ad-valorem court fee on the present plaint, as they have sought declaration of the sale deed as illegal, null and

void and perusal of the case file shows that the alleged sale deed which has been challenged by the plaintiff has been executed by defendant no.1, being the director M/s Soni Promoters Pvt. Ltd. in favour of defendant no.3 and in these authorities as mentioned above, Hon'ble Apex Court & Hon'ble Punjab and Haryana High Court held that where one person seeks declaration that sale deed executed is illegal and void, then there is challenge to the validity of the sale deed and the plaintiffs are required to pay ad-valorem court fee as per sale deed consideration in the sale deed.

8. Keeping in view the totality of facts and circumstances of the present case, both the applications are allowed. Plaintiffs are given a chance to affix court fee within one month from the date of passing of order. In case, if ad-valorem court fee is not affixed within one month, the suit is liable to be rejected."

9. No grounds to interfere are made out in the above cogent reasons given by the court below, with which I am in agreement. The petition stands dismissed with liberty to the petitioners to comply with the order passed by the trial Court in the pending suit.

10. After the aforesaid order was passed, at this stage, learned counsel for the petitioners submits that the time granted by the trial Court to deposit the deficient Court fee expires today itself. On oral prayer, in the interest of justice, time granted by the trial Court is extended further for a period of four weeks with effect from today.

(ARUN MONGA)
JUDGE

11.10.2021
manju

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No