

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

CR-2691-2021 (O&M)

Date of decision: 11.11.2021

Gyan Chand

...Petitioner

Versus

Jogendri Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arihant Jain, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

The plaintiff (petitioner herein) assails the correctness of the order dated 08.10.2021, passed by the Civil Judge, Junior Division, Hodal, directing him to deposit the ad valorem court fee on the amount of sale consideration of the impugned sale deed. Undisputedly, the plaintiff is the executant of the sale deed. Learned trial court while relying upon the judgment passed by the Hon'ble Supreme Court in '**Suhrid Singh alias Sardool Singh vs. Randhir Singh and others**' (2010) 12 SCC 112 has directed the plaintiff to deposit the required court fee. In the aforesaid judgment, the Hon'ble Supreme Court while making a distinction between a person who is himself an executant of the document and some other person claiming a right in the property has held that the executant shall be liable to pay the ad valorem court fee while praying for annulment in a suit whereas the non-executant shall not be liable to deposit the ad valorem court fee as he is not required to pray for annulment. There is fundamental distinction between a suit for declaration under Section 34 of the Specific Relief Act, 1963 and a suit for annulment/cancellation of the deed under Section 31 of the Specific

Relief Act, 1963. This distinction has also been explained by the Full Bench of this Court in **Niranjan Kaur vs. Nirbigan Kaur** 1982 PLR 127.

Learned counsel representing the petitioner contends that since the land in dispute is an agricultural land, therefore, ad valorem court fee is not payable. He relies upon the judgment passed in **Bhag Singh vs. Jarnail Singh and others** 1990(2) RLR 93. There is a local amendment in the court fee Act, 1870, with respect to the payment of court fee in a suit seeking the relief of possession of agricultural land. The aforesaid amendment shall not be applicable in the present case because the plaintiff prays for annulment of the registered deed.

Since the Hon'ble Supreme Court in *Suhrid Singh @ Sardool Singh's case* (supra) has clearly drawn a distinction, therefore, the judgment passed by the Single Judge in *Bhag Singh's case* (supra) cannot be relied upon.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

11.11.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE