

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

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**Civil Revision No.2832 of 2021
Date of decision: 17.11.2021.**

LAKHDEEP VAID

...Petitioner

Versus

SUNIL AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Abhishek Goyal, Advocate
for the petitioner.**

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Defendant no.3(petitioner herein), in a suit filed for seeking a decree of declaration with the consequential relief of permanent injunction assails the correctness of the order passed by the learned trial court refusing to reject the plaint in exercise of powers under Order 7 Rule 11 CPC. It is being asserted that the plaintiffs have also sought a decree of possession.

The learned trial court, while rejecting the application under Order 7 Rule 11 CPC, has observed that the plaintiffs are not the executants of the sale deed, therefore, they are not required to pay the ad valorem court fee. The court has relied upon the judgment passed in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010 AIR (Supreme Court), 2807**, in this regard.

The learned counsel representing the petitioner contends that the plaintiffs have also sought the relief qua decree of possession. It has been noticed that the plaintiffs claim to be the co-owners in a land measuring

93 kanals and 12 marlas located in village Budhena. Prima-facie, the nature of property appears to be an agricultural land. As per the local amendment in the Court Fee Act, 1870, for the relief of possession of agricultural land, only a negligible amount of court fee is payable. Moreover, it is always open for the defendants to pray for framing an issue on that aspect of the matter.

Still further, the revision petition at the behest of the defendant is not maintainable in view of the judgment passed by the Hon'ble Supreme Court in **Rathnavarmaraja vs. Vimla, AIR 1961 SC 1299**. It has been held that once the defendant has filed an application and contested the issue of court fee, before the trial court, no further appeal or revision is maintainable.

In view thereof, no ground to interfere in the order passed by the trial court, is made out.

Dismissed.

However, the petitioner shall be entitled to pray before the trial court for framing an issue on this aspect of the matter.

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

November 17, 2021
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(ANIL KSHETARPAL)
JUDGE

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