

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

CR-1278-2018
Decided on : 18.07.2022

Arun Chakarpani

..... Petitioner

Versus

Anita Rani and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jagdish Manchanda, Advocate
 for the petitioner.

 Mr. Abhilaksh Grover, Advocate and
 Mr. Sukhsharan Sra, Advocate
 for the respondents.

Manjari Nehru Kaul, J.(Oral)

Instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 07.09.2017 (Annexure P-1) passed by Civil Judge (Jr. Divn.) Pehowa vide which an application under Order 7 Rule 11 CPC filed by the plaintiffs-respondents was allowed and the defendant-petitioner was directed to pay ad valorem court fee on his counter claim. Further prayer has also been made to set aside the order dated 18.01.2018 (Annexure P-3) whereby application under Order 33 Rule 1 CPC filed by the defendant-petitioner was dismissed.

Learned counsel for the petitioner submits that the trial Court failed to appreciate that the sale deed dated 16.02.2015 was a result of fraud. In fact, respondents No.1 and 2 got it executed by taking advantage of the petitioner, who was a habitual gambler. Learned counsel submits that

since the petitioner had not received any sale consideration as alleged in the sale deed and no consideration had thus, passed hands coupled with the fact that the petitioner had not claimed possession of the suit property, he was not required to affix ad valorem court fee. In support of his submissions, learned counsel has placed reliance on the judgment of Madhya Pradesh High Court in ***Manzoor Ahmed vs. Jaggi Bai and others, 2010(1) RCR (Civil) 356*** and of the Coordinate Bench of this Court in ***Rambai vs. Kapoori and another, 2014(4) RCR (Civil) 376 and Chhote Lal vs. M/s Ansal Housing & Estate Pvt. Ltd., 2002(2) RCR (Civil) 574.***

Learned counsel for the respondents while opposing the submissions made by counsel for the petitioner has submitted that the impugned order does not warrant any interference as it is in consonance with the settled law.

Heard learned counsel for the parties and perused the relevant material available on record.

The petitioner in his counter claim is seeking cancellation of the sale deed dated 16.02.2015 executed by him in favour of respondent No.1, on the ground of it being a result of fraud.

A perusal of the recitals of the sale deed (Annexure P-4) reveals that the petitioner has received a sum of Rs.18 lacs towards sale of the suit property and thus, the submissions made by learned counsel for the petitioner that he had not received any sale consideration deserves to be rejected. Whether sale consideration was actually received or not, would be a matter of trial and cannot be gone into at this stage. Still further, where a party to the sale deed seeks its cancellation, it would have to pay ad valorem

court fee irrespective of whether consequential relief of possession is sought or not as has been held by this Court in ***Kaushalya Devi @ Kaushalya Bhaskar (since deceased) through her LRs vs. Smt. Nirmal Bhardwaj and others (CR No.996 of 2017) decided on 16.05.2022.***

In the circumstances, this Court does not find any error in the impugned order passed by the Court below, which would warrant its interference. Accordingly, the present petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

18.07.2022

sonia

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No