

CR-287-2022

Date of Decision: 31.01.2022

Ram Karan

....Petitioner

VS

Krishna Devi

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Vikram Singh, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

The petitioner is the plaintiff. He has filed a suit for declaration that sale deeds mentioned in para No. 1(i) and (ii) of the plaint be cancelled and the plaintiff be declared owner of both the properties.

The defendant filed an application under Order 7 Rule 11 CPC for rejecting the plaint on account of non-payment of *ad valorem Court fee*. Vide the impugned order, the trial Court has allowed the application and has directed the plaintiff-petitioner to affix *ad valorem Court fee* on or before the next date of hearing. Aggrieved by the said order the present revision petition has been filed.

Learned counsel for the petitioner submits that sale deed dated 05.11.2007 was not executed by the plaintiff and being the non-executant thereof he could not have been asked to affix *ad valorem Court fee*. Reliance is placed upon ***Suhrid Singh @ Sardool Singh vs. Randhir Singh and others, 2010(12) SCC 112.***

The argument is misconceived.

In ***Suhrid Singh @ Sardool Singh (supra)***, it has been held that if the non-executant of the sale deed seeks relief that the sale deed is not binding on his

rights he need not pay ad valorem Court fee. That is not the situation in the present

case. The relief sought by the plaintiff-petitioner is that he be declared owner of the subject matter of the sale deeds as property was purchased *benami* in favour of the defendant and relations between the plaintiff and the defendant have soured. It may be noted that the plaintiff and defendant are husband and wife. Obviously, the plaintiff is seeking annulment of the sale deeds, which are subject matter of the suit and is, thus, required to affix *ad valorem Court fee*. The trial Court was, accordingly, justified in passing the impugned order.

The revision petition has no merit and is dismissed.

31.01.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No