

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

104

**CR-7615 of 2015 (O&M)
Date of decision: 24.11.2022**

Jai Bhagwan

..Petitioner

Versus

Smt. Roshni and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the petitioner.
 Mr. Sant Lal Barnala, Advocate
 for the respondents.

ANIL KSHETARPAL, J(Oral)

The plaintiff has filed this revision petition challenging the correctness of an interlocutory order passed by the Civil Judge (Jr. Divn.), Hansi, while directing him to affix ad valorem court fee on the amount of Rs.26,07,000/- failing which his plaint shall be deemed to have been rejected.

The petitioner, while filing the suit, has prayed for the following reliefs:-

“It is, therefore, respectfully prayed that the suit of the plaintiff may kindly be decreed with costs and a decree for permanent injunction prohibitory to the effect that the defendant nos. 1 to 10 be restrained from interfering in the lawful and peaceful possession of the plaintiff as well as perform defendant nos. 11 & 12 and entering into any specific khasra no. of the joint khewat bearing khewat no.595/548, khatauni no.735 admeasuring 140 kanal 0 marlas as per jamabandi for the year 2008-09, situated at village Sisai Kaliravan, Tehsil Hansi, District Hisar on the basis of sale deed bearing vasika no.581 & 582 dated 02.05.2012, which are nonest, void abintio and got registered in collusion with revenue officials and in violation of order dated 22.2.2012 in civil suit no.283-c/15.9.2011 titled as Sunehari versus Jogender etc. and

further be restrained from alienating any specific khasra nos. by way of sale, gift, mortgage, lease, release deed or by any other mode on the basis of abvoesaid illegal sale deeds, forever, may kindly be passed in favour of plaintiff and against the defendants. Any other relief, which this Hon'ble Court may deem fit may also be awarded to the plaintiff."

Admittedly , the petitioner (Jai Bhagwan son of Sh. Kartar Singh) is not the executant of the sale deeds. The trial court has misconstrued the relevant provisions of the Court Fees Act, 1870 elucidated by the respective Courts in **Niranjan Kaur vs Nirbigan Kaur, AIR, 1981 P&H 368** and **Suhrid Singh alias Sardool Singh vs. Randhir Singh and others, (2010) 12 SCC 112.**

It has been held that only if the executant prays for the annulment/cancellation of the document, then, he is liable to affix the ad valorem court fee. In other situation the ad valorem Court fee is not payable because he has filed a simplicitor suit under Section 34 of the Specific Relief Act 1963.

Consequently, the impugned order dated 12.10.2015 is set side. The trial Court is requested to proceed with the case in accordance with law.

Disposed of accordingly.

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

November 24, 2022

nt

(ANIL KSHETARPAL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>