

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

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**CR No. 1794 of 2022 (O&M)
Date of decision: 08.08.2022**

Baljinder Kaur

...Petitioner

Versus

Prabhjot Kaur alias Gugu

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vishal Mittal, Advocate for
Mr. Digvijay Nagpal, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the impugned order dated 03.01.2022, passed by the trial Court, vide which an application filed by the petitioner/defendant under Order 7 Rule 11 CPC has been dismissed.

Brief facts of the case are that the respondent/plaintiff has filed a suit for declaration and permanent injunction that the will executed by the father of the plaintiff is liable to be set aside as the same is not binding on the right of the plaintiff.

The trial Court dismissed the aforesaid application by making the following observations:

“4. In view of the rival arguments advanced before this Court and after going through the material available on record, this Court is of the considered opinion that herein, the plaintiff seeks joint possession alongwith the defendants in the suit property by further seeking declaration that the Will dated 09.07.2020 executed by late Kulwinder Singh existing in the favour of the defendants is illegal, null and void.

5. The nature of the suit filed by the plaintiff and the consequential reliefs claimed by her goes to show that the plaintiff herein has not challenged any sale deed or other dispositive document qua the suit property. The plaintiff has challenged the impugned Will and the same is alleged to have been executed by late father in which Will the plaintiff had been excluded from the interest in the suit property. In such like situations the Court fees payable by the parties is according to the value of subject matter in terms of Section 7 (V) of the Court Fees Act, 1870. Court fees is affixed by the plaintiff according to the value of the subject matter of the suit. Accordingly, the application in hand is dismissed. Now to come upon 24.01.2022 for arguments on stay application.”

Learned counsel for the petitioner has argued that the respondent/plaintiff is bound to affix the ad-valorem court fee on the value of the suit land.

After hearing learned counsel for the petitioner and going through the impugned order, passed by the trial Court, I find no illegality or infirmity in the impugned order as the trial Court has recorded a finding that the plaintiff has not challenged any sale deed and the challenge is to a Will, vide which the plaintiff was excluded from the suit property and it is observed that the ad-valorem court fee is not liable to be paid by the respondent/plaintiff.

Accordingly, finding no merit in the present petition, the same is dismissed.

08.08.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*