

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

120

CR-2102-2022 (O&M)  
Date of decision: 16.09.2022

**JATINDER SINGH**

....Petitioner

**Versus**

**HARMANPREET SINGH**

...Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

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Present : Mr. Kashav Chadha, Advocate for  
Mr. Navjot Singh, Advocate  
for the petitioner.

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**MANJARI NEHRU KAUL. J. (ORAL)**

The instant revision petition has been filed under Article 227 of the Constitution to impugn the orders dated 09.02.2022 (Annexure P-1) and 08.04.2022 (Annexure P-2) vide which the trial Court directed the petitioner-plaintiff to pay the requisite Court fee on the suit instituted by him.

Learned counsel appearing for the petitioner submits that the impugned orders are patently illegal and have been passed without appreciating the factual position of the case. He submits that pursuant to the agreement to sell dated 04.05.2015, the petitioner had received only Rs.12,50,000/- as earnest money from the respondent out of the total sale consideration of Rs.1,07,86,471/- therefore, he could not have been asked to pay *ad valorem* fee on the total sale consideration settled between the parties. He has further argued that the Courts below ignored the fact that the possession of suit property was still with the petitioner, since, it was not delivered and hence no consequential relief qua possession had been prayed for. It was submitted that the petitioner had thus affixed the requisite Court fee as per schedule to the Court Fees Act, 1870.

I have heard learned counsel for the petitioner and perused the

relevant material on record.

It is relevant to point out that though the petitionr has sought relief of declaration qua the agreement to sell dated 04.05.2015, however, since he is the executant of the said agreement to sell, therefore, the nature of relief sought by him in essence would be cancellation of the said instrument. The petitioner cannot be allowed to couch his fundamental relief of cancellation in the form of declaration to avoid affixation of *ad valorem* Court fee by way of astuteness in drafting.

The Hon'ble Supreme Court in the matter of **Surhid Singh @ Sardool Singh Vs. Randhir Singh, 2010 (2) RCR (Civil) 564** has held that when the executant prays for cancellation of an instrument he/she would have to affix *ad valorem* Court fee, irrespective of the fact whether or not consequential relief of possession was prayed for. It was further held that the plaintiff has to affix *ad valorem* Court fee on the amount of consideration stated in the instrument. Therefore, this Court does not concur with the submissions made by the learned counsel that the petitioner is liable to affix *ad valorem* Court fee only on the amount of earnest money received by him from the respondent.

As a sequel to the above, this Court does not find any illegality, much less, perversity in the impugned orders.

Accordingly the petition is dismissed.

(MANJARI NEHRU KAUL)  
JUDGE

**September 16, 2022**

S.Sharma(syr)

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |