

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

CR-6312-2019 (O&M)

Date of decision: 24.08.2022

Gogi

...Petitioner

Versus

Rukaiya Begum and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate for the petitioner
 Mr. Virender Mandhan, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

Admittedly, the petitioner is executant of the sale deed. He has filed a suit for decree of declaration while submitting that the aforesaid sale deed is a result of fraud and misrepresentation. The trial court has directed the petitioner to pay ad valorem court fee on the consideration stated in the sale deed.

Heard the learned counsel representing the petitioner and with his able assistance, perused the paperbook. He relies upon the judgment passed in **Sarabjeet Kaur vs. Punjab Singh and another** (CR 427-2017 decided on 24.08.2018) to contend that in a suit for a mere declaration claiming fraud while executing sale deed, the ad valorem court is not payable.

In '**Suhrid Singh @ Sardool Singh vs. Randhir Singh and others**' 2010 AIR (SC) 2807, the Supreme Court, while making distinction between the suit for a mere declaration and annulment of a document, held that if an executant wishes to pray for cancellation of a deed, then, ad valorem court fee on the consideration stated in the

document is required to be affixed. The Supreme Court has drawn a distinction between a suit filed under Section 31 and 34 of the Specific Relief Act, 1963. Section 31 provides for annulment/cancellation whereas Section 34 provides for decree of declaration. In fact, the present suit filed by the plaintiff is for cancellation of the instrument because he himself, is the executant. In **Sarabjeet Kaur's case** (supra), the attention of the Bench was not drawn to the judgment passed by the Supreme Court in **Suhrid Singh @ Sardool Singh's case** (supra).

Dismissed.

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

24.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE