

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

CR-1518-2016(O&M)

Reserved on:-17.4.2023

Date of Pronouncement:-19.4.2023

Parjeet Singh

...Petitioner

Versus

Rajinder Pal Singh and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Jaideep Verma, Advocate  
for the petitioner.

Mr.P.S. Toor, Advocate for  
Mohd.Yousaf, Advocate  
for respondent No.37.

Mr.Namit Gautam, Advocate  
for respondent No.40.

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**H.S. MADAAN, J.**

1. Under challenge in this revision petition is the order dated 21.1.2016 passed by Civil Judge (Jr.Divn.), Ludhiana in Civil Suit titled as 'Parjeet Singh Versus Rajinder Pal Singh and others' vide which while disposing of an application under Order 7 Rule 11 CPC for rejection of the plaint having been moved by applicant/defendant No.45, the plaintiff was found liable to affix advalorem Court fee on the plaint as per the

market value and a direction in that regard was given to him. The revision petitioner before this Court is plaintiff Parjeet Singh.

2. Briefly stated, facts of the case are that plaintiff Parjeet Singh by way of amended plaint had sought a decree for declaration that impugned sale deeds are null and void and as a consequential relief craving for possession of the suit property. In those proceedings, an application had been filed under Order 7 Rule 11 CPC by defendant No.45 for rejection of the plaint for the reason that advalorem Court fee was required to be affixed on the plaint, which had not been done.

3. The application was resisted by the plaintiff contending that all the sale deeds had been executed during pendency of the litigation and suit property is in the form of agricultural land, therefore advalorem Court fee is not required to be affixed. Dismissal of the application was sought for.

4. After hearing arguments, the trial Court vide the impugned order had disposed of the application directing the plaintiff to affix advalorem Court fee on the plaint as per the market value of the suit property under challenge and a date for doing so was fixed as 3.2.2016. For ready reference, the operative part of the order is being reproduced as under:

*3. After hearing rival contentions of the learned counsel for both the parties and have also carefully gone through the record on the file. In this case, the plaintiff seeks declaration that he is owner of the suit property and also seeks declaration that the sale deeds mentioned in the head note of the plaint are null and void on the*

*ground that the suit property was self purchased by Malkit Singh grandfather of the plaintiff. The plaintiff also seeks possession directing the defendants to handover the vacant possession, which means that the plaintiff is not in possession of the suit property. In case titled Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Ors, 2010(2) CCC, 510(S.C.), it is held that “If non executant wants to avoid it, and he is in possession, he has to sue for a declaration that the deed is null or void and does not bind him or his share and he has to pay merely a fixed court fee – In case non executant is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay ad valorem Court fee”. In view of the law laid down (Supra), the plaintiff is liable to affix the Court fee on the plaint as per the market value of the suit property, under challenge. Hence, without commenting upon the merit of the present suit, the present application stands allowed and the plaintiff is directed to affix the advalorem Court fee on the plaint as per the market value of the suit property, under challenge.*

*Now to come up on 03.02.2016 for filing the advalorem Court fee.*

5. Such order left the plaintiff aggrieved and he has approached this Court by way of filing the present revision petition, notice of which was issued to the respondents. However, only respondents No.37 and 40 have put in appearance through counsel..

6. I have heard learned counsel for the parties besides going through the record and I find that the order passed by the trial Court is some what vague and ambiguous.

7. The trial Court has directed the plaintiff to affix advalorem Court fee on the plaint as per the market value of the suit property without specifying as to how the market value is to be calculated and by whom. It being so, it would be very difficult for the plaintiff to come to know as to how much Court fee he is required to affixed on the amended plaint. Therefore, before directing the plaintiff to affix the advalorem Court fee, the trial Court should first determine the market value of the suit property by allowing the parties to place on record documentary evidence in that respect as well as by seeking information from the office of Collector/Revenue Authorities and then it may issue necessary direction to the plaintiff to affix advalorem Court fee giving him reasonable time to do so and if the plaintiff pays the advalorem Court fee as directed, then the Court may proceed further with the suit. However, in case of default the trial Court may pass appropriate order and if the application is accepted and plaint is rejected then such order would be taken to be a decree in terms of Section 2(2) CPC, then the appropriate remedy for the plaintiff would be to file an appeal before District Court rather than invoking the revisional jurisdiction of this Court.

8. Under the circumstances, the revision petition is disposed of issuing a necessary direction to the trial Court to determine the market value of the suit property in the manner detailed above and then it may issue appropriate direction to the plaintiff with regard to payment of

advalorem Court fee within a specified time period and thereafter appropriate order in the matter may be passed as detailed supra.

The interim order dated 15.3.2016 passed by this Court stands vacated.

19.4.2023  
Brij

(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**