

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

CM-8866-CII-2023 *
CM-8869-CII-2023 in/and
CR-5719-2016
Date of Decision: 17.05.2023

Kamaljit Kaur @ Manjit Kaur

..Petitioner

Versus

Satnam Kaur @ Lovely and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Duhan, Advocate for the applicant/petitioner.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-8866-CII-2023

Prayer in the present application is for condonation of delay of 35 days in filing the revision.

For the reasons mentioned in the application, same is allowed and delay of 35 days in filing the revision, is hereby condoned.

CM-8869-CII-2023

The present application has been filed for recalling the order dated 28.02.2023 vide which the civil revision was dismissed for non-prosecution.

Keeping in view the averments made in the application which is duly supported by an affidavit, the order dated 28.02.2023 is recalled and the civil revision is restored to its original number.

On the request of the learned counsel for the petitioner, the civil revision is taken up for hearing today itself.

CR-5719-2016

Learned counsel for the petitioner argues that in the impugned order the petitioner has been held liable to pay an ad-valorem

Court fees on the property, which is under challenge, whereas, once the petitioner was not the executant of the said sale deed, which has been challenged, no Court fees is required to be affixed.

I have heard learned counsel for the petitioner.

In the present case, the trial Court has relied upon the judgment of Hon'ble Supreme Court in '*Civil Appeal Nos.2811 & 2813 of 2010* titled as *Suhrid Singh @ Sardool Singh Vs. Randhir Singh, decided on 29.03.2010*', according to which, where a document challenged by a plaintiff, has not been executed by him/her, he/she is not required to pay the ad-valorem Court fee unless and until, apart from the challenge to the document, the possession is sought in which case the ad-valorem Court fees is to be paid.

Learned counsel for the petitioner has not been able to dispute that in the civil suit filed that apart from challenging the sale deed in question, the prayer is also for the grant of possession. That being so, the order passed by the trial Court dated 13.07.2016, cannot be termed to be bad or perverse to the settled principle of law. Rather the same is in consonance with settled principle of law noticed herein before.

In the facts and circumstances of the present case, no ground is made out for interference by this Court.

Dismissed.

17.05.2023

(HARSIMRAN SINGH SETHI)
JUDGE

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No