

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCR-8390 of 2017 (O&M)
Date of Order: 14.07.2023

Manjeet Singh

.Petitioner

Versus

Pinkesh Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Madan Pal, Advocate, for the petitioner.
Mr. S.K.Sharma, Advocate, for
Mr. Bhagwat Dayal Sharma, Advocate,
for respondent no.1 to 3.

ANIL KSHETARPAL, J

1. Admittedly, the plaintiff (petitioner herein) is himself the executant of the sale deed dated 17.04.2015. He has filed a suit for grant of decree of declaration that the aforesaid registered sale deed executed by him is a result of fraud. In the impugned order, the trial court has directed the plaintiff to pay the ad-valorem court fee on the amount of sale consideration.

2. This revision petition has been filed to challenge the correctness of the aforesaid order.

3. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the petitioner submits that though in Suhrid Singh alias Sardool Singh vs. Randhir Singh and others, (2010) 12 SCC 112, the Supreme Court has held that if a document is sought to be avoided by the executant through a suit, the ad-valorem court fee is required to be affixed, however, the aforesaid judgment has been explained in Rambai vs. Kapoori and another, 2014(4) RCR(Civil) 376.

5. It may be noted here that the Full Bench of this Court in

Niranjana Kaur vs. Nirbigana Kaur, 1982 PLR 127 held that if the executant files a suit for cancellation/annulment of a document, then ad-valorem court fee is liable to be paid. The Full Bench framed the following question:-

“Where the plaintiff, who is a party to a document relating to the agricultural land, files a suit for its cancellation or for declaring it voidable against him, is such a suit governed by section 7(iv) (c) or Article 1 Schedule 1 of the Court Fees Act.”

6. Similarly, the Supreme Court while deciding **Suhrid Singh alias Sardool Singh's case (supra)**, once again held that the executant of the document is required to file a suit for its annulment which requires payment of ad-valorem court fee on the sale consideration. In fact, there are two different provisions in the Specific Relief Act, 1963 (hereinafter referred to as 'the 1963 Act'), which govern payment of the Court fee in such cases. The first category of suits are regulated by Section 31 of the 1963 Act which provides for the cancellation or annulment of the documents. The executant is required to file a suit under Section 31 of the 1963 Act to seek cancellation of the document. In this category of suits, ad-valorem court fee is payable. The second category is governed by Section 34 of the 1963 Act which provides for filing suits for declaration. Such suits can be filed by an individual who are not the party to the document. In such circumstances, a non-executant is not required to seek annulment/cancellation of the instrument. In fact, the judgment passed in **Rambai vs. Kapoori and another(supra)** and **Tarun Kumar and others vs. Pankaj Kapoor and others, 2016(5) RCR(Civil) 296** have been considered in detail by this Court in **Harish Chander Arora vs. Raj Kumar (Civil Revision No.2289 of 2020, decided on 06.09.2022)**. It has been held that the judgments passed in

Rambai vs. Kapoori and another(supra) and Tarun Kumar and others(supra) are given in the peculiar facts of the aforesaid cases and do not lay down any ratio decidendi governing such cases in general.

7. Keeping in view the aforesaid facts and discussion, finding no merit, the revision petition is dismissed.

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

July 14, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO