

2023:PHHC:145091
**127 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-680-2019 (O&M)

Date of decision: 15.11.2023

Smt. Manju Devi

....Petitioner

Versus

Smt. Manisha and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sudhir Rana, Advocate for the petitioner

Mr.S.S.Khurana and
Mr. Gulshan Nandwani, Advocates for
respondent no.4 and 5

ANIL KSHETARPAL, J (Oral)

1. The trial court has directed the plaintiff to pay the ad valorem court fee on the amount of sale consideration of the sale deed dated 05.07.2017, as she is one of the executants of the sale deed and she has challenged the correctness thereof.

2. Learned counsel representing the petitioner contends that the plaintiff has alleged fraud and therefore, no court fee is payable. He further submits that the plaintiff alongwith certain other persons have executed a joint sale deed and the sale deed qua the plaintiff is only with respect to 4 kanals and 1 ½ marlas land and therefore, she can be asked to pay the proportionate ad valorem court fee.

3. In **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others (2010) 12 SCC 112** the Court held that the executant is

required to pay the ad valorem court fee if the annulment of the instrument including the sale deed is sought in the suit.

4. Similarly, a Full Bench of this Court in **Niranjan Kaur vs. Nirbigan Kaur 1982 PLR 127** has drawn a distinction between the suits filed under Section 31 and 34 of the Specific Relief Act, 1963. In fact, the executant of the sale deed is required to seek the annulment of the same.

5. Hence, the ad valorem court fee is payable by the plaintiff, however, there is some substance in the argument of the learned counsel that the plaintiff can be forced to pay the court fee only with respect to the extent of the property sold by her.

6. Learned counsel representing the respondent has no objection thereto. In these circumstances, the revision petition is disposed of by directing the plaintiff to deposit the ad valorem court fee, within a period of one month, from today, on the proportionate sale consideration of the sale deed dated 05.07.2017, i.e. with respect to 4 kanals and 1 ½ marlas land.

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

15.11.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE