

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

2023:PHHC:111227

CR-4321-2019 (O&M)
Date of decision: 24.08.2023

SANTOSH

..Petitioner

Versus

KRISHAN AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Himanshu Jain, Advocate
for the petitioner.

Ms. Sonia Madan, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The dispute is with regard to the plaintiff's liability to pay *ad valorem* Court fee on the amount of sale consideration, has come up for adjudication. It is not in dispute that the plaintiff has filed the suit for grant of decree of declaration that the sale deed dated 17.05.2010 be declared illegal, null and void with a consequential relief of permanent injunction restraining the defendant from alienating or creating any charge or raising any construction or cultivating the suit property. It is not in dispute that the plaintiff claims that the suit property is *nazul* and, therefore, his father had no right to transfer the same. It is also not in dispute that the plaintiff is not the executant of the sale deed. In fact, the sale deed dated 17.05.2010 was executed by his father, whereas, sale deed dated 06.12.2010 was executed by defendant No.1 in favour of defendant No.2.

2. The issue with regard to the liability to pay *ad valorem* Court fee on such suit has been examined by a Full Bench of this Court in **Niranjan Kaur Vs. Nirbigan Kaur, 1982 PLR 127**, it was held that unless

the plaintiff is himself the executant and he prays for annulment of such sale

deed, *ad valorem* Court fee is not payable on the amount of sale consideration. This view was reiterated by the Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, (2010) 12 SCC 112.**

3. The learned counsel representing the respondent submits that the plaintiff is not in possession but is seeking relief of injunction to restrain the defendants from cultivating the land.

4. This Court has considered the submissions.

5. Qua the relief of injunction, the plaintiff has already paid fixed amount of the Court fee. The question is with regard to the liability of the plaintiff to pay *ad valorem* Court fee. As the plaintiff is neither the executant nor he has sought relief of possession.

6. Hence, the trial Court has erred in directing the plaintiff to pay *ad valorem* Court fee.

7. With these observation, the present petition is disposed of.

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

August 24th, 2023

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(ANIL KSHETARPAL)
JUDGE

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