

2023:PHHC:092217
**130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4520-2022 (O&M)
Date of decision: 19.07.2023

Samantra @ Sumatra

....Appellant

Versus

Har Parshad and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ram Bilas Gupta, Advocate for the petitioner

Mr. Johan Kumar, Advocate for respondent no.3

ANIL KSHETARPAL, J (Oral)

1. The dispute is with respect to the liability to pay the ad valorem court fee on the amount of sale consideration as directed by the trial court. Admittedly, the plaintiff (petitioner herein) is not the executant of the sale deed. In fact, defendant no.1 has executed the transfer deed in favour of defendant no.2. It is evident that the trial court has wrongly applied the judgment passed by the Supreme Court in **Suhrid Singh @ Sardool Singh vs. Randhir Singh and others (2010) 12 SCC 112**. In fact, in the aforesaid judgment, the Supreme Court after considering Section 7 of the Court Fees Act, 1870, held that if the suit is filed by the person who is not the executant of the sale deed, then the ad valorem court fee is not payable. In fact, this precise issue was decided by a Full Bench of this Court in **Niranjan Kaur vs. Nirbigan Kaur 1982 PLR 127**.

2. In view of the aforesaid discussion, the impugned order is set aside. The trial court is requested to proceed with the trial of the case.

3. Disposed of.

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

19.07.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE