

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 5074 of 2022****Date of Decision: 21.11.2023**

Charitable Hospital, Dayanand Nabha, Bhikhi Mor Nabha and Another

... Petitioner(s)

Versus

Joginder Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Deepak Aggarwal, Advocate
for the petitioner(s).Mr. Saurabh Kaushik, Advocate
for the respondents.**Anil Kshetarpal, J.**

1. The respondents have filed a suit for the grant of decree of declaration that the sale deed dated 22.08.2014, was executed by the petitioner-Trust is in violation of the gift deed. An application filed by the petitioners under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) to reject the plaint on the ground that the plaintiffs have not deposited the *ad valorem* court fee, has been dismissed by the trial Court. The correctness of the aforesaid order has been challenged in this revision petition.

2. The learned counsel representing the petitioners contends that the plaintiffs have filed a suit for cancellation of the sale deed executed by the Trust on 22.08.2014. He submits that in such suit, the *ad valorem* court fee is payable.

Civil Revision No. 5074 of 2022

3. This Court has considered the submissions of the learned counsel representing the parties. Admittedly, the plaintiffs (respondents herein) are not the executants of the aforesaid sale deed. There is a difference in a suit filed by the executant for annulment/cancellation of the registered instrument. Such suits are governed by Section 31 of the Specific Relief Act, 1963 (hereinafter referred to as “the 1963 Act”). However, if a non-executant wishes to claim that the instrument is bad due to any other reason, then he is required to file a suit for the grant of a decree of declaration as provided under Section 34 of the 1963 Act. A full Bench of this Court in *Niranjan Kaur v. Nirbigan Kaur 1982 PLR 427* noticed this distinction.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

November 21, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No