



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-399-2021 (O&M)
Decided on: 05.08.2024

GURJIT SINGH

...Petitioner

Versus

BALJIT SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Prateek Sodhi, Advocate
for the respondent.

RITU TAGORE, J.

1. This revision is directed against the order dated 10.02.2021 (Annexure P-11), passed by learned Civil Judge (Junior Division), Amritsar whereby the petitioner's application under Section 151 Code of Civil Procedure (in short referred to as 'CPC'), has been rejected and he has been directed to pay ad-valorem Court fee on the suit.
2. Learned counsel submits that petitioner (plaintiff before the learned trial Court), instituted a suit (Annexure P-1) for declaration that he is a co-owner and in joint possession to the extent of 1/18th share in the entire suit land, and further that the exchange deed dated 11.10.2013 (Annexure



P-12) is null and void, not binding upon his rights in the subject land, being a result of fraud and misrepresentation. It is contended that petitioner's signatures were procured by misrepresenting the document as a partition deed. He was not a conscious executant of the exchange deed. Furthermore, it is stated by learned counsel that the document in question is an exchange deed, no consideration was passed and no relief for possession of the suit land was sought. Consequently, the petitioner was not liable to pay ad-valorem Court fee on the plaint. His case is covered under Article 17 (iii) of Second Schedule of the Court Fees Act, 1870 (hereinafter referred to as the Act).

3. Learned counsel further contends that in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010 AIR (Supreme Court) 2807**, Hon'ble the Supreme Court of India address the issue of a sale deed and not an exchange deed, nor did formulate any illustration based on the exchange deed, wherein no consideration had exchanged hands. Therefore, the ratio of the decision in **Suhrid Singh @ Sardool Singh (supra)** is deemed inapplicable to the present case. Learned counsel submits that ad-valorem Court fees are to be paid based on the consideration amount paid under the document/deed, rather than the value of the property. In the present case the petitioner/plaintiff did not receive any consideration, he is therefore not liable to pay any ad-valorem Court fee. Additionally, this Court vide order dated 19.09.2019 (Annexure P-6) allowed the CR No.3564 of 2018 titled 'Gurjit Singh Vs. Bajlit Singh and others' and in para-No.4 observed as under: -

“Evidently, the plaintiff is a co-sharer along with defendants. Perusal of the exchange deed would show that there is no



passing of consideration in the deed. In *Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others*, 2010 (2) RCR (Civil) 564, the Hon'ble Apex Court has held that if the executant of the sale deed seeks cancellation of the deed, he has to pay ad valorem Court fee on the consideration stated in the deed. Plaintiff has not asked for any possession.”

4. It is stated that the learned trial Court committed a material error in directing the petitioner to pay ad-valorem Court fee, without appreciating the facts of the case and the order passed in CR No.3564 of 2018, whereby the revision preferred by the petitioner was allowed. It is further urged that the petitioner/plaintiff is seeking declaration to the extent of 1/18th share of the property and has been incorrectly directed to pay ad-valorem Court fee on the entire value of land mentioned in the deed, which is contrary to the law. To support his contentions, also place reliance on *Sunil Kumar Vs. Sheokaran Lal and another*, 2015(2) R.C.R (Civil) 385, *Surjit Singh Vs. Karamjit Kaur*, 2012 (3) R.C.R. (Civil) 364, *Gurnam Singh and others Vs. Dev Raj and others*, 2016 (3) R.C.R (Civil) 359, *Harbans Kaur Vs. Amrik Singh @ Beer Singh*, 2015(4) R.C.R. (Civil) 770, *Rajesh and another Vs. Suresh and others*, 2017(3) Law Herald 2205, *Pushpa Rani and others Vs. Usha Rani and others*, 2016(4) R.C.R. (Civil) 346 and *Kinny Kapur and another Vs. Gunveer Kapur and others*, Civil Appeal No.885 of 2012. On these submissions, a prayer is made to set aside the impugned order.

5. Contra, learned counsel for the respondents defended the order, stating that it has been correctly passed by considering the pleadings and the relief claimed in the plaint (Annexure P-1). Therefore, the provisions of Section 7 (iv) (c) of the Act applicable to case in hand. Learned counsel argues that in CR No.3564 of 2018, filed by the petitioner, the co-ordinate



Bench of this Court in para No.10, categorically observed that case of the petitioner falls under the first principle as laid out in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010 .AIR (Supreme Court) 2807.** He is required to pay ad-valorem Court fee and further that the review petition of the order dated 19.09.2019 passed in CR No.3564 of 2018 (Annexure P-6), filed by the petitioner was also dismissed.

6. Learned counsel submits petitioner is signatory to the Exchange Deed (Ex-P-12). In the deed, the market value of the land with respect to each party has been mentioned as Rs.3,80,70,000/-. The petitioner/plaintiff is liable to pay an ad-valorem Court fee on said consideration. The case squarely falls under 7(iv) (c) of the Act and this issue stands decided between the parties in CR No.3564 of 2018. Therefore, the petitioner should not be permitted to re-agitate the matter again. Learned counsel submits that the petitioner is seeking declaration of his 1/18th share in the suit property and declaration to the effect that exchange deed dated 11.10.2013 and mutation sanction in pursuance thereof are illegal and result of fraud. The petitioner is therefore liable to pay ad-valorem Court fee on the entire value of the consideration mentioned in the deed and not to the extent of his share. A prayer is thus made to dismiss the present revision petition.

7. I have heard learned counsel for the parties and have gone through the paper book and annexed documents, with their able assistance.

8. It is pertinent to mention that the issue of payment of Court fee raised by the petitioner has already been settled by this Court in CR No.3564 of 2018. For ready reference, the relevant extract of the observations made by Coordinate Bench of this Court, is reproduced hereunder:-



“For the reasons explained hereinabove, I find that the present case of the plaintiff is covered by first principle of **Suhrid Singh @ Sardool Singh's case (supra)** and the plaintiff is required to pay ad valorem Court Fee as per consideration shown in the exchange deed. However, it is made clear that if the trial Court ultimately finds that ad valorem Court is required to be paid over and above the consideration shown in the instrument, in such eventuality, the trial Court can pass a contingent/conditional decree, requiring the plaintiff to make good the deficiency in Court fee within a specified period.”

9. Further in para-No.7, this Court while referring to the principles culled out in **Suhrid Singh @ Sardool Singh**, ruled as under: -

*“**Suhrid Singh @ Sardool Singh's case (supra)** is a subsequent judgment on the issue. As per ratio laid down in the aforesaid judgment, if the executant of an instrument seeks to get it annulled, he is required to pay Court fee as per consideration shown in the instrument. Plaintiff being executant of the exchange deed, in the event of seeking cancellation of exchange deed, has to pay ad valorem Court fee on the consideration stated in the exchange deed. The second principle of aforesaid case law would apply only where nonexecutant in possession sues for declaration that the deed is null and void and does not bind him. In such eventuality, he has to pay a fixed Court fee of Rs.19.50 under Article 17(iii) of Second Schedule of the Act. As per third principle, if a nonexecutant not in possession sues not only for declaration, but also seeks possession as a consequential relief, then he has to pay ad valorem Court fee as provided under Section 7(iv)(c) of the Act. The aforesaid judgment has set at naught the controversy with regard to all the three circumstances.”*

10. The coordinate bench of this Court, in para No.10, categorically observed that the case of the petitioner is covered by the first principle of **Suhrid Singh @ Sardool Singh's case** and he is required to pay ad-valorem Court fee as per the consideration shown in the exchange deed. Not only direction as detailed above were passed, but this Court further directed that if the learned trial Court finds that ad-valorem Court fee is required to be paid over and above the consideration shown in the instrument, in that



requiring the plaintiff to make good the deficiency of Court fee within specified period.

11. The petitioner in application dated 10.01.2020 (Annexure P-9) pleaded that consideration and value of the property are two different things, and that Court fee should be paid accordingly. Since consideration paid on the exchange deed is NIL, so he is not required to pay Court fee, which is in line with the observations made in Revision Petition No.3564 of 2018. After hearing the parties and objection raised by the petitioner, the learned trial Court directed the petitioner to pay Court fee vide order dated 10.02.2021 (Annexure P-11), impugned in this petition.

12. Perusal of the exchange deed (Ex. P-12), and the authoritative pronouncement made in **Suhrid Singh @ Sardool Singh case** (supra), no intervention is warranted in present revision to form a different view than expressed by the learned trial Court for the reasons that, the matter agitated by the petitioner has already been decided by this Court in CR No.3564 of 2018, directing the petitioner to pay Court fee on the consideration, shown in the exchange deed. In the exchange deed, it is mentioned that the market value of the land for each party is Rs.3,80,70,000/-. This shows that the consideration of the transaction has been valued at par with the value of the land. So, it is not a case that no consideration was paid or that consideration in terms of value of the land was not taken into account while preparing the exchange deed. Undeniably, the review of the order dated 19.09.2019 passed in CR No.3564 of 2018 filed by the petitioner has been dismissed. Therefore, the attempt of the petitioner to exempt his case from the purview of the provisions of section 7(iv)(c) has failed. Another plea of the petitioner that he is required to pay a Court fee proportionate to his 1/18th is also



untenable. He is seeking cancellation of the entire instrument/exchange deed and not just part of it.

13. It may be noted that the judicial precedents referred to by the petitioner, were also cited in CR-3564 of 2018 and they were not relied being contrary to the authoritative pronouncement in Suhrid Singh @ Sardool Singh (supra).

14. As a sequel to the foregoing discussion, it is held that the learned trial Court has rightly exercise the jurisdiction that vested in it and the order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any intervention by this Court.

15. Revision petition stands dismissed, accordingly.

16. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

05.08.2024
Rimpal

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