



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4880-2024
Date of Decision: 19.11.2024

SARITA DEVI
Vs.
DEEPIKA AND ANOTHER

..... PETITIONER
..... RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present:- Mr. Sandeep Punchhi, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Petitioner-defendant is aggrieved by the order dated 07.05.2024 (Annexure P5) passed by learned Civil Judge (Jr. Division), Jalandhar, whereby application moved by her under Order VII Rule 11 CPC to reject the plaint of Civil Suit No.1551 of 2022 titled 'Deepika Vs. Sarita Devi', was dismissed.

2. It is contended by learned counsel that as the plaintiffs-respondents had challenged the legality and validity of the transfer deed dated 10.06.2021, they were required to pay *ad valorem* Court fee and so the application has been wrongly rejected.

3. Perusal of the plaint (Annexure P1) would reveal that plaintiffs (respondents herein) are the legal heirs of Rohit Kumar. They sought declaration that they had inherited the suit property after the death of Rohit Kumar and that alleged transfer deed dated 10.06.2021 executed by Rohit Kumar in favour of defendant-Sarita Devi is null and void and not binding upon them. Plaintiffs-respondents did not seek any relief of possession.

4. Trial Court observed that as plaintiffs only sought relief of declaration that transfer deed in question was not binding upon them and that plaintiffs had not sought the relief of possession, so they were not required to pay *ad valorem* Court fee.

5. This Court does not find any illegality and perversity in the impugned order. The issue is fully covered by the judgment of Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh (Supra)***, which has been followed by a Division Bench of this Court in ***Tarsem Singh and others (Supra)***. After referring to the case of ***Suhrid Singh @ Sardool Singh (Supra)***, it was held by Division Bench of this Court in ***Tarsem Singh and others (Supra)***: -

“i) If the executant of a document wants a deed to be annulled, he is to seek cancellation of the deed and to pay *ad valorem* Court fee on the consideration stated in the said sale deed.

ii) But if a non-executant seeks annulment of deed i.e. when he is not party to the document, he is to seek a declaration that the deed is invalid, non-est, illegal or that it is not binding upon him. In that eventuality, he is to pay the fixed Court fee as per Article 17(iii) of the Second Schedule of the Act.

iii) But if the non-executant is not in possession and he seeks not only a declaration that the sale deed is invalid, but also a consequential relief of possession, he is to pay the *ad-valorem* Court fee as provided under Section 7(iv)(c) of the Act and such valuation in case of immovable property shall not be less than the value of the property as calculated in the manner provided for by Clause (v) of Section 7 of the Act.

In view of the aforesaid judgment of the Hon'ble Supreme Court, the issue leading to payment of the Court fee is decided in terms of the parameters laid down above.”

6. In ***Bharat Bhushan Gupta case (Supra)***, it has been held by Hon'ble Supreme Court as under: -

“9.1. It remains trite that it is the nature of relief claimed in the plaint which is decisive of the question of suit valuation. As a necessary corollary, the market value does not become decisive of suit valuation merely because an immovable property is the subject-matter of litigation. The market value of the immovable property involved in the litigation might have its relevance depending on the nature of relief claimed but, ultimately, the valuation of any particular suit has to be decided primarily with reference to the relief/reliefs claimed.”

7. It is, thus, clear that simply because immoveable property is the subject matter of litigation, that in itself is not decisive for valuation of the suit. The market value of the property as involved in the litigation is relevant, depending upon the nature of the claimed relief and the valuation of the suit is to be decided primarily with reference to the claimed relief.

8. As plaintiffs are not executants of the impugned deed and they did not seek relief of possession, so they were not required to pay ad-valorem court fee. In view of this factual and legal position as above, this Court finds no merit in the present petition and as such, the same is hereby dismissed.

19.11.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No