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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-7452-2024

Date of decision : 19.12.2024

Tejinder Pal Singh

... Petitioner

Versus

Gurdavinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vinod Kumar Handa, Advocate and
Mr.Karan S. Gill, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 23.10.2024 (Annexure P-1) passed by the Civil Judge (Jr. Div.), Ambala, vide which the application under Order 7 Rule 11 CPC filed by respondents no.1 to 3 for directing the petitioner-plaintiff to affix proper court fee on the value of the alleged sale deed has been allowed.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a suit for declaration to the effect that the alleged sale deed dated 17.02.2022 is illegal, null and void and has not prayed for cancellation of the said sale deed and thus, is not liable to pay the ad-valorem court fee. It is submitted that the impugned order, vide which

the petitioner has been directed to pay ad-valorem court fee, is not in



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accordance with law and deserves to be set aside.

3. It is not in dispute that the petitioner was one of the executants of the sale deed dated 17.02.2022 (Annexure P-6) which is now sought to be challenged by the petitioner. The trial Court vide impugned order has observed that the relief sought by the petitioner is in essence for cancellation of the sale deed and the petitioner is an executant of the said sale deed and thus, he is required to pay the ad-valorem court fee as per the consideration stated in the sale deed and has referred to the judgment of the Hon'ble Supreme Court passed in ***Suhrid Singh @ Sardool Singh vs. Randhir Singh & Ors.*** reported as ***2010 AIR (Supreme Court) 2807*** in support of the said proposition. The Hon'ble Supreme Court in the above said case has held asunder:-

“6. Where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed. But if a non-executant seeks annulment of a deed, he has to seek a declaration that the deed is invalid, or non-est, or illegal or that it is not binding on him. The difference between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance, can be brought out by the following illustration relating to ‘A’ and ‘B’ -- two brothers. ‘A’ executes a sale deed in favour of ‘C’. Subsequently ‘A’ wants to avoid the sale. ‘A’ has to sue for cancellation of the deed. On the other hand, if ‘B’, who is not the executant of the deed, wants to avoid it, he has to sue for a declaration that the deed executed by ‘A’ is invalid/void and non- est/ illegal and he is



*not bound by it. In essence both may be suing to have the deed set aside or declared as non-binding. But the form is different and court fee is also different. **If `A', the executant of the deed, seeks cancellation of the deed, he has to pay ad-valorem court fee on the consideration stated in the sale deed. If `B', who is a non-executant, is in possession and sues for a declaration that the deed is null or void and does not bind him or his share, he has to merely pay a fixed court fee of Rs. 19.50 under Article 17(iii) of Second Schedule of the Act. But if `B', a non- executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad-valorem court fee as provided under Section 7(iv)(c) of the Act. Section 7(iv)(c) provides that in suits for a declaratory decree with consequential relief, the court fee shall be computed according to the amount at which the relief sought is valued in the plaint. The proviso thereto makes it clear that where the suit for declaratory decree with consequential relief is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7.***

4. In the present case, although the petitioner has couched the suit as being suit for declaration but in fact the petitioner is seeking cancellation of the sale deed dated 17.02.2022 to which the petitioner is a party along



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with other co-sharers. Thus, the law laid down by the Hon'ble Supreme Court in the above said case would apply on all fours and it would be incumbent upon the petitioner to pay the ad valorem court fee on the consideration stated in the sale deed.

5. Keeping in view the abovesaid facts and circumstances, the order passed by the trial Court is in accordance with law and deserves to be upheld and the present revision petition deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

December 19, 2024.
Davinder Kumar

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