

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.308 of 2019 (O&M)

Reserved on: 01.05.2025

Date of Order: 15.05.2025

Bajinder Singh

.Petitioner

Versus

Rubi Gupta and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sanjiv Kumar Aggarwal, Advocate,
Mr. Tejas Bansal, Advocate
Mr. Ojas Bansal, Advocate
for the petitioner.**

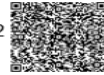
ANIL KSHETARPAL, JUDGE (Oral)

1. The plaintiff assails the correctness of order passed by the trial court directing him to pay ad-valorem court fee on the amount of Rs.15,00,000/- the sale consideration reflected in the sale deed dated 27.10.2014, for seeking the relief of declaration with direction to pay ad-valorem court fee on the amount of Rs.60,00,000/-, the market value of the suit property, for seeking relief of possession.

2. The learned counsel representing the petitioner has disclosed that on the amount of sale consideration ad-valorem court fee has already been paid. The learned counsel representing the petitioner contends that the relief of possession is a consequential relief, hence, ad-valorem court fee is not payable.

3. Despite receipt of notice, the respondents have not entered appearance.

4. The prayer clause of the suit filed by the plaintiff reads as



under:-

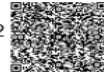
“It is, therefore, prayed that a decree for declaration to the effect that the plaintiff is the owner in possession of the suit property detailed above in para no.1 of the plaint and shown in red colour in the attached site plan dated 26.1.2015, as the impugned sale deed dated 27.10.2014 got executed, attested and registered by the defendant no.3 as General Power of Attorney in favour of the defendant no.1 is totally wrong, illegal, null and void, forged, fraudulent, ineffective, non-existent, collusive, without consideration, without any legal authority and is not binding upon the rights of the plaintiff over the suit property and for possession as consequential relief and also for permanent injunction restraining the defendants from in any way dealing with the suit property adverse to the interest of the plaintiff as owner, under the colour of impugned illegal, sale deed, and from changing/altering the suit property in any manner by demolition etc., be passed with costs in favour of the plaintiff and against the defendants.

Any other relief to which the plaintiff is found entitled to may also be granted.”

5. While filing the suit, for the purpose of court fee, the value of the suit was fixed at Rs.200/- and Rs.200/- for each relief and a court fee stamp of Rs.5/-+Rs.5/- was affixed.

6. Defendant no.1, filed the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the CPC'), which was allowed and the directions, as already noticed, were issued.

7. This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

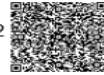


8. The learned counsel representing the petitioner submits that the relief of possession is a consequential relief upon the relief of declaration, hence, he is only liable to pay ad-valorem court fee on the amount of Rs.15,00,000/-, i.e., the amount of sale consideration reflected in the sale deed dated 27.10.2014.

9. This court has considered the submissions of the learned counsel representing the petitioner.

10. The present suit falls in the category of cases covered by Section 7(iv)(c) of the Court Fee Act, 1870 (hereinafter referred to as 'the 1870 Act'). It is provided that if a suit filed for grant of decree of declaration where a consequential relief is prayed for, the court fee is payable on the value of the subject matter/property. Although, there is substance in the argument of the learned counsel representing the petitioner that relief of possession is a consequential relief because the plaintiff's right to possession depends upon him being granted the relief of declaration. It is only then the possession can be granted. Hence, the grant of relief as to declaration is an essential part of the relief, whereas the prayer for possession is a consequential relief. The relief of declaration is not ancillary to the relief of possession.

11. In the plaint, it has been disclosed that the market value of the property was nearly Rs.60,00,000/- which has been sold by defendant no.3, on payment of meagre consideration and at a throwaway price of Rs.15,00,000/-. It is also disclosed in the plaint that the market value of the acquired land is more than Rs.60,00,000/-. Thus, the plaintiff prays for annulment of the sale deed which was executed by defendant no.3 as



attorney of plaintiff. Hence, for the purpose of payment of court fee, the valuation of suit shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7 of the 1870 Act, which provides for payment of ad-valorem court fee on the value of the property. Thus, the plaintiff is not required to pay separate ad-valorem court fee on the relief of possession, however, on the relief of declaration, the plaintiff is liable to pay ad-valorem court fee on the amount of Rs.60,00,000/- which is claimed to be the value of the property.

12. Hence, the impugned order is partly set aside and partly modified. The plaintiff is not liable to pay separate ad-valorem court fee on the relief of possession, however, he shall be liable to pay the ad-valorem court fee on the amount of Rs.60,00,000/-, the market value, as asserted by the plaintiff.

13. Hence, the revision petition is allowed. The plaintiff is granted one month's time to make good the deficiency in the ad-valorem court fee, if any.

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

(ANIL KSHETARPAL)
JUDGE

15th May, 2025

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