

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2025:PHHC:170945



(227)

CR-5506-2015

Date of Decision: 08.12.2025

Savitari Devi

--Petitioner

Versus

Om Parkash & Ors.

--Respondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL.

Present:- Mr. Anuj Balian, Advocate for the petitioner.

None for respondent no.1.

Mr. Abhay Partap Singh Chauhan, Advocate
for respondents no.2 & 3 (through V.C.).

VIKAS BAHL.J (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India praying for setting aside the order dated 20.05.2015 (Annexure P-4) passed by Civil Judge (Jr. Divn.), Panchkula vide which the application under Order 7 Rule 11 of CPC filed by respondents/defendants was partly allowed and plaintiffs-petitioner were directed to deposit the requisite court fee.

2. Learned counsel for respondents no.2 and 3 has submitted that in the present case petitioner is liable to pay *ad valorem* court fee as per the law laid down by the Coordinate Bench of this Court in **Dr. Bhupinder Singh Vs. Paramjit Singh and others, 2018 AIR (Punjab) 93**. It is further submitted that at any rate the petitioner, who are claiming that the plaintiffs are owners to the extent of 7/8th share of the property and are seeking separate possessions by way of partition by metes and bound of the house in

question to the extent of 7/8th share, are liable to pay *ad valorem* court fees to the extent of 7/8th share and in support of the arguments, has relied upon the judgement of the Coordinate Bench of this Court in **Kuldeep Kaur Vs. Smt. Surjit Kaur and others, 2015 (2) PLR 116**, the relevant portion of which is reproduced hereunder:-

“Thus, from the aforesaid discussion, it is very much clear that if the non-executant of a document, transferring the rights in the property, seeks declaration and is not in possession, he is liable to pay the ad valorem court fee, but at the same time if the said non-executant/plaintiff is seeking possession by way of partition of the said property to the extent of his share, the plaintiff is liable to pay the ad valorem court fee to the extent of his share only and not on the entire value of the suit property.”

3. In the present case, it is not disputed that the petitioner-plaintiff while filing the suit for declaration claimed the consequential relief of separate possession to the extent of 7/8th share by way of partition by metes and bounds of the said house in addition to other reliefs. The relevant portion of the said relief is reproduced hereunder:-

“Suit for declaration to the effect that the plaintiffs are the owners to the extent of 7/8 share i.e. being the legal heirs of Sh. Barkha Ram son of Sh. Paras Ram to the extent of 3/8th share and being the legal heirs of Sh. Ronki Ram son of Sh. Paras Ram to the extent of 1/2 share, in the house measuring 438 sq. yards (59'9" X 75'9" marked A, B, C, D and shown bounded in color red in enclosed site plan situated in Abadi Deh of village Shyamtoo, Tehsil and Distt. Panchkula bounded in the East with Bara of Gian Singh, in the West with Village Pond, in the South with Share-aam Street and in the North with Village Pond and further for the declaration that the sale deed bearing no. 1728/1 dt. 7.10.2013 registered

in the office of Sub Registrar Panchkula executed by the defendant no.1 in favour of the defendant no.2 and 3 qua the above said property is absolutely illegal, null and void and is not binding on the rights of the plaintiffs qua the above said 7/8 share in the above said property as the defendant no.1 was not the owner of more than 1/8th share in the said property with consequential relief of separate possession to the extent of 7/8th share by way of partition by meets and bound of the above said house and with consequential relief of permanent injunction restraining the defendants No.2 and 3 from alienating any part of the house in dispute or creating any charge over the same any further in any manner illegally and forcibly.”

4. Learned counsel for the petitioner has submitted that in view of the law laid down in case of **Kuldeep Kaur** (supra) the plaintiff would pay *ad valorem* court fee to the extent of the share claimed i.e. 7/8th share but for doing the same, adequate time be granted to the petitioner-plaintiffs.

5. Keeping in view the above said facts and circumstances, the present petition is partly allowed and the impugned order dated 20.05.2015 (Annexure P-4), is set aside to the extent that the Trial Court has directed the petitioner to pay the *ad valorem* court fee on the relief of separate possession after taking into consideration the market value of the entire house, whereas the petitioner would be liable to pay *ad valorem* court fee to the extent of the share claimed i.e. 7/8th share. Petitioner is accordingly, granted two months time to deposit the *ad valorem* court fee to the extent of the share claimed i.e. 7/8th share.

08.12.2025

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(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No