



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-938-2019

Date of decision : 22.07.2025

Malook Singh Bahia

... Petitioner

Versus

Ravinder Kaur Bahia and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Naveen Sharma, Advocate for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India against the impugned order dated 08.01.2019 passed by the Civil Judge (Jr.Div.)-1, Jalandhar, vide which the petitioner had been directed to affix the ad-valorem court fee.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner has challenged the registered sale deed dated 16.03.2012 executed by defendant no.2, as attorney of the present petitioner-plaintiff in favour of defendant no.1, who is sister of defendant no.2 and daughter-in-law of the present petitioner-plaintiff. It is submitted that defendant no.1 by misrepresenting facts and stating to the plaintiff that only for the purpose of management of the properties of the plaintiff a special power of attorney dated 17.02.2012 be executed in favour of defendant no.2, but actually got executed the power of attorney in which the right to transfer etc. was also given. It is submitted that since the special



power of attorney had been taken from the present petitioner by misrepresenting facts and the subsequent sale deed was executed on the basis of the said special power of attorney, thus, no ad-valorem court fee was required to be affixed on the plaint by the petitioner. It is submitted that the impugned order dated 08.01.2019 vide which the petitioner had been asked to pay ad-valorem court fee is illegal and deserves to be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order deserves to be upheld and the present petition being meritless deserves to be dismissed for the reasons stated hereinafter.

4. The trial Court vide order dated 08.01.2019 had observed that since the sale deed dated 16.03.2012 had been executed by defendant no.2 as attorney of the plaintiff in favour of defendant no.1 and the said sale deed was sought to be challenged in the present suit, thus, the plaintiff was required to affix ad-valorem court fee upon the face value of the sale consideration mentioned in the sale deed. It was observed that the execution of the sale deed through an attorney would make the plaintiff himself an executant of the sale deed, as the act of the agent or attorney is considered to be act done by the master himself. Reliance was placed upon the judgment of the Hon'ble Supreme Court in the case of ***Suhrid Singh @ Sardool Singh vs. Randhir Singh & Ors*** reported as ***2010(12) SCC 112***, the relevant portion of which is reproduced hereinbelow:-

“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

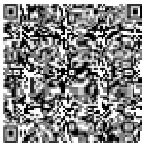


of the property calculated in the manner provided for by clause (v) of [Section 7](#).”

5. In the present case, although the petitioner has filed suit for declaration but in effect he is seeking cancellation of sale deed as he is a party to the sale deed. No law has been cited before this Court to show that in case a person has executed the sale deed through his attorney, then the said person is not to be taken as an executant of the sale deed.

6. A Co-ordinate Bench of this Court in the case of ***Sarwan Singh vs. Sukhdev Singh and others*** reported as ***2014 SCC OnLine P&H 19090*** had, while considering a case of the plaintiff-petitioner of requiring him to affix ad-valorem court fee and after taking into consideration the fact that the sale deed in question had been executed by him through his attorney and also other facts, had observed that the order of the trial Court requiring the plaintiff-petitioner to affix ad-valorem court fee was in accordance with law and called for no interference. Further, the Hon’ble Supreme Court in its judgment dated 26.10.2015 in ***Civil Appeal no.8880 of 2015*** titled as “***M/s Omax Construction Ltd. vs. Dharam Singh & Ors.***” had also considered a case where the challenge was made by the plaintiff therein to the power of attorney as well as to the subsequent sale deed executed on the basis of said power of attorney and had after considering the said fact and other factors, observed that the plaintiff was required to pay ad-valorem court fee.

7. Thus, as per settled law, the petitioner was required to pay ad-



valorem court fee and the impugned order dated 08.01.2019 requiring the petitioner to pay ad-valorem court fee deserves to be upheld. The argument raised on behalf of the petitioner to the effect that even special power of attorney dated 17.02.2012 has been challenged on the ground that the same was got executed from the plaintiff by mis-stating facts would not in any way absolve the petitioner from affixing the ad-valorem court fee. No law has been cited on behalf of the petitioner in support of the plea that in case the special power of attorney is also challenged, then he is not required to pay ad-valorem court fee. Further, as is apparent from the prayer clause in the plaint, the said power of attorney dated 17.02.2012 has been embossed with serial no.5528 dated 12.03.2012 in the office of Commissioner, Jalandhar Division, Jalandhar and the question as to whether there was any misrepresentation or not would be a matter of trial and heavy onus would lie upon the plaintiff to prove the said alleged misrepresentation, moreso, when the plaintiff is admitting the signature on the said special power of attorney.

8. Keeping in view the above said facts and circumstances, the impugned order dated 08.01.2019 deserves to be upheld and is upheld and the present petition being meritless deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

July 22, 2025.
Davinder Kumar

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