



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

128

CR-2020-2025 (O&M)
Date of decision: 02.04.2025

Pushpawati Mayor

...Petitioner

V/s

Avtar Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. C.L. Pawar, Advocate,
Ms. Harpreet Kaur, Advocate and
Mr. Satveer Singh Badal, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 14.01.2025 passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana, vide which the application filed by the petitioner-defendant No.6 under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short the "CPC") for rejection of plaint was dismissed.

2. The facts, as emanating from the revision petition, are that respondents No.1 to 4/plaintiffs (hereinafter referred to as the "plaintiffs") filed a suit for declaration that they were exclusive owners in possession of land measuring 40 *kanals* 13 *marlas* (fully described in the plaint) situated in Village Barwala, Tehsil Sahnewal, District Ludhiana. A further declaration was sought that the gift deed dated 06.01.2021 executed with regard to the said land in favour of defendants No.1 and 2 (Surjit Singh and Ajit Singh) was illegal, null and void and was a result of misrepresentation and fraud. Yet another declaration to the effect that the subsequent gift deed dated 06.01.2021 executed by defendants No.1 and 2 in favour of defendant No.5 (Smt. Kanwaljit Kaur) was illegal, was also sought.



3. The suit was opposed by the defendants. Written statement on behalf of defendants No.6 and 7 was filed, wherein the averments made in the plaint were denied and certain other facts were pleaded.

4. During the pendency of the suit, an application under Order 7 Rule 11 CPC (Annexure P-4) was filed. Rejection of the plaint was sought on two grounds namely that the plaintiffs were required to affix *ad valorem* Court fee since the gift deeds had been challenged and further that the plaintiffs were neither the legal heirs of Bharat Bhushan nor were they related to him in any manner and, therefore, they had no *locus standi* to file the suit.

5. By way of the impugned order dated 14.01.2025, the Court of learned Civil Judge (Jr. Divn.), Ludhiana dismissed the application for rejection of plaint leading to the filing of the present revision petition.

6. I have heard learned counsel for the petitioner.

7. Learned counsel for the petitioner submits that the impugned order is not sustainable, for, *ad valorem* Court fee was required to be paid since gift deeds had been challenged by the plaintiffs. He further submits that since the plaintiffs were not related to Bharat Bhushan and were accordingly not his legal heirs, they had no *locus standi* to file the suit.

8. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

9. As regards the first issue regarding payment of *ad valorem* Court fee, since the plaintiffs were not executants to the gift deeds nor were claiming possession but had prayed for the issuance of a declaration that they were exclusive owners in possession, no *ad valorem* Court fee was required to be paid in terms of the ratio laid down by the Hon'ble Supreme Court of India in the case of ***Suhrid Singh @ Sardool Singh vs. Randhir Singh and others*, (2010) 12 SCC 112**. As regards the second ground that the plaintiffs had no *locus standi* since they were not related to the deceased (Bharat Bhushan) in



any manner, it would be a matter of evidence and the suit would not be liable to be rejected at the threshold only on this ground. It is settled law that while dealing with an application for rejection of plaint, it is only the contents of the plaint and documents annexed thereto that have to be considered and neither the stand taken in the written statement nor in the reply to the application for rejection of plaint is to be gone into. A bare perusal of the plaint does not, in any manner, even suggest that the plaintiffs had no cause of action to institute the suit. The learned trial Court dealt with the matter in accordance with law and returned the following findings:-

“7. There is one common ground of rejection of plaint of both the applications i.e. in the present suit for declaration, plaintiff challenged the gift deeds dated 06.01.2021 qua the suit property but as per the applicants/defendants, the ad-valorem Court fee on the said gift deeds have not been affixed. Now, plaintiffs in the present suit firstly claimed the declaration that they are in exclusive owner in possession of the suit property land detailed in the head note and then challenged by way of declaration gift deeds dated 06.01.2021 with respect to the suit land in favour of defendant no.1&2 executant by defendant no.4 and also then gift deed dated 06.01.2021 executed by defendant no.1&2 in favour of defendant no.5 as detailed in the head note of the suit. Therefore, it is clear that the plaintiffs have not sought any possession of the suit property, rather they are claiming that they be declared as owner in possession of the suit land and then challenged the gift deeds executed by defendant no.4 in favour of defendant no.1&2 and subsequent gift deed of same date i.e. 06.01.2021 executed by defendant no.1&2 in favour of defendant no.5. That being so, the plaintiffs are not the executants of the challenged gift deeds. In such circumstances at this stage, the suit of the plaintiff can't be rejected on account of non filing of ad valorem Court fee as claimed as plaintiffs are not executant of the two transfer deeds under challenge. If it is so once it is clear that the plaintiffs have not challenged the transfer deed executed by them but challenged the same executed by the defendants noted above then again to say the plaint cannot be rejected on the ground of non-payment of Court fee on the said transfer deeds under challenged. Reliance in this regard can be placed on the judgment tilted as "Santosh Mahajan and another Vs Naina Devi and others" reported as 2014 (3) CCC 157 (P&H). In the said judgment of the Hon'ble Punjab and Haryana High Court also discussed the law laid down in the judgment tilted as "Suhrid Singh @ Sardool Singh Vs Randhir Singh and other,



2010 (2) CCC 510 (SC). The reliance can also be placed on the judgment tiled as Chandro Vs Randeep Maan 2016 (2) RCR (Civil)1029 (P&H) as relied upon by the Ld. Counsel for the plaintiff. Wherein the Hon'ble Punjab and Haryana High Court held that Court fee Act, 1870, section 7 (4) (c) where plaintiff giving the property to the defendant by way of gift and executed a gift deed which indicated value of property & possession of property remained with the plaintiff. Plaintiff later filing suit for cancellation of gift deed does not have to pay the ad-valoram court fee. Held:-

"It is nowhere mentioned that any consideration has been exchanged. Only the value of gifted property has been mentioned, which cannot be considered to be the consideration amount for the gifted property. The plaintiff is also not claiming the relief of possession, rather she is claiming herself to be in possession."

8. *Defendant no.1&2 also took the grounds that the suit is liable to be rejected as the plaintiff is not the legal heir of Bharat Bhushan (deceased) and the suit property is related to the Bharat Bhushan and also that there is no locus standi of the plaintiff to file the present suit against the defendants. But it is a matter of evidence if plaintiffs have no locus standi to file the present suit, when the suit property claimed to have been purchased from one Sukhwinder Singh to Davinder Kaur mother of the plaintiffs vide sale deed dated 17.11.2005 and also by virtue of sale deed dated 20.03.2006 to the father of the plaintiffs no.1 to 4 as pleaded in this regard. Hence, no ground is made out to reject the plaint on other ground as well as in view of the above discussion.*

Accordingly, both the applications in hand are hereby dismissed & disposed of accordingly. Now, for addressing arguments on stay application subject to last opportunity to come up on 16.01.2025."

10. I do not find any illegality or jurisdictional error in the said findings warranting interference by this Court.

11. In view of the above, I do not find any merit in the instant revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 02, 2025

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