



CR-2446-2025

1

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

CR-2446-2025

Decided on : 21.08.2025

Raman Kumar Khullar

..... Petitioner

Versus

Surinder Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Shehbaz Thind, Advocate and
Mr. Lakshay Goyal, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 01.02.2025 (Annexure P-3), passed by the Court of Civil Judge (Junior Division), Ludhiana vide which the application moved by the petitioner-defendant No.1 under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC') for rejection of plaint was dismissed.

2. A suit for declaration was filed by respondent No.1-plaintiff (Surinder Singh) to the effect that he was the owner in possession of land (fully described in the plaint), situated at Village Bhoda, Tehsil and District, Ludhiana. A declaration was also sought that the general power of attorney dated 04.01.2021 alleged to have been executed by the father of the plaintiff Amar Singh in favour of the



petitioner-defendant No.1 as regards land measuring 785 square yards was the result of fraud, mis-representation and undue influence and had not been executed by Amar Singh. Sale deeds dated 12.01.2022, 21.01.2022, 28.01.2022 and 29.01.2021 executed by the petitioner-defendant No.1 on the basis of the said power of attorney were also challenged. Consequential relief of permanent injunction restraining the defendants from alienating the suit property or from interfering into the peaceful possession of the plaintiff thereon and from encroaching or raising illegal construction over the same was also sought.

3. An application under Order 7 Rule 11 CPC (Annexure P-2) came to be filed by the petitioner-defendant No.1. It was averred that the suit was not maintainable as the plaint did not disclose any cause of action. It was further averred that the relief claimed was undervalued and upon correct valuation, *ad valorem* Court fee was required to be paid. It was also averred that though, there was a reference of a Will in the plaint, no date was mentioned.

4. As is evident from the impugned order, reply to the application was filed, though the same has not been placed on record.

5. By way of the impugned order, the application for rejection of plaint was dismissed, leading to the filing of the present revision petition.

6. I have heard learned counsel for the petitioner.

7. Learned counsel for the petitioner has strenuously urged that that the trial Court erred in dismissing the application. It has been submitted that the plaintiff, by clever drafting has tried to conceal that he is not in possession of the



suit land. It has been argued that only because he is not in possession, relief of injunction restraining the defendants from raising construction has been claimed and had he been in possession, there was no need to claim such relief.

8. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit. It is well settled that for the purpose of decision of an application under Order 7 Rule 11 CPC, only the contents of the plaint or the documents attached thereto are to be seen. It is the specific case of the plaintiff that the power of attorney alleged to have been executed by his father was a forged document and that on the basis of the said forged document, sale deeds had been executed by the petitioner-defendant No.1. Relief of symbolic possession has been claimed by specifically averring that the plaintiff is in possession of the suit land. Injunction has also been claimed restraining the defendants from interfering in his possession. Further, the plaintiff is not the executant of the sale deeds. As stated, possession has not been claimed. In the case of *Baljeet Singh Vs. Krishna Devi and another* 2018(4) PLR 27, a Coordinate Bench, while referring to the judgment of a Full Bench of this Court in *Niranjan Kaur v. Nirbigan Kaur*, 1981, PLJ 423, the judgment of the Supreme Court of India in the case of *Suhrid Singh @ Sardool Singh v. Randhir Singh and others*, 2010(2) SCC, 112, AIR 2010 Supreme Court 2807 and the judgment of a Division Bench of this Court in *Tarsem Singh versus Vinod Kumar*, 2011 (31) RCR (Civil) 709, held as under:-

“Learned counsel for the petitioner has further relied upon various other judgments passed by the learned Single Benches on peculiar



facts of the case. In the considered opinion of this Court, such judgments cannot be treated as precedent particularly when a Full Bench of this Court in the judgment reported as Niranjan Kaur v. Nirbigan Kaur, 1981, PLJ 423, has clearly held that if an executants of the document is seeking cancellation thereof, the Court fee would be payable as per Article 1 Schedule I of the Court Fee Act and not as per Section 7(iv)(c) of the Act. This is what has been also held by the Hon'ble Supreme Court in the case of Suhrid Singh @ Sardool Singh v. Randhir Singh and others, 2010(2) SCC, 112, AIR 2010 Supreme Court 2807. Still further, a Division Bench of this Court in the judgment reported as Tarsem Singh and others v. Vinod Kumar and others, 2011(31) RCR (Civil), 709 while considering the similar question has also held as under:-

- i) If the executants of a document wants a deed to be annulled, he is to seek cancellation of the deed and to pay advalorem Court fee on the consideration stated in the said sale deed.*
- ii) But if a non-executant seeks annulment of deed i.e., when he is not party to the document, he is to seek a declaration that the deed is invalid, non-est, illegal or that it is not binding upon him. In that eventually, he is to pay the fixed Court fee as per Article 17(iii) of the Second Schedule of the Act.*
- iii) But if the non-executant is not in possession and seeks not only a declaration that the sale deed is invalid, but also a consequential relief of possession, he is to pay the advalorem Court fee as provided under Section 7(iv)(c) of the Act and such valuation in case of immovable property shall not be less than the value of such valuation in case of immovable property shall not be less than the value of the property as*



CR-2446-2025

5

calculated in the manner provided for by Clause (v) of Section 7 of the Act.”

It is, therefore, clear that no *ad valorem* Court fee would be required to be paid.

Even otherwise, if ultimately the Court finds that the plaintiff is not in possession of the suit property, it would always be open for the Court to order the payment of *ad valorem* Court fee, keeping in view the legal and factual aspects at the relevant stage. The trial Court rightly did not accept the application for rejection of plaint as there was no occasion for rejection of plaint at the threshold.

That being so, I do not find any merit in the instant revision petition and the same is accordingly dismissed.

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

21.08.2025
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(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No