



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

**CR-3318-2021
Decided on : 01.09.2025**

Jagat Singh

..... Petitioner

Versus

Himmat Singh (deceased) through his LRs and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Anupam Singla, Advocate
for the appellant.

None for respondent No.1.

Mr. Kanish Jindal, Advocate and
Mr. Arun Jindal, Advocate
for respondent No.2.

VIKRAM AGGARWAL, J (ORAL)

The present petition, preferred under Article 227 of the Constitution of India, assails the order dated 10.11.2021 (Annexure P-1), passed by the Court of Civil Judge (Junior Division), Patiala, vide which the application filed by the respondents-defendants under Order VII Rule XI of the Code of Civil Procedure, 1908 (for short 'CPC') was allowed and the petitioner-plaintiff was directed to affix *ad valorem* court fee as per the value of the suit property.

2. The facts, as emanating from the revision petition, are that the petitioner-plaintiff (Jagat Singh) instituted a suit for declaration to the effect that he was the owner to the extent of 1/3rd share of the suit land (fully described in the



plaint), situated in Village Roshanpur, Tehsil Dudhan Sadhan, District Patiala. A further declaration was also sought that the transfer of ownership deed dated 27.10.2014 executed by defendant No.1 in favour of defendant No.2 as regards the suit land was illegal, null and void and was liable to be cancelled. Relief of possession as regards the suit land was also sought alongwith consequential relief of permanent injunction.

3. During the pendency of the suit, an application under Order VII Rule XI CPC (Annexure P-3) was moved. It was averred that since transfer deed dated 27.10.2014 had been challenged, Court fee on the value of the land i.e. Rs.41,55,000/- as depicted in the transfer deed was to be paid.

4. The application was opposed by way of a reply (Annexure P-4) in which the averments made in the application were denied.

5. By way of the impugned order dated 10.11.2021, the application was allowed and the petitioner-plaintiff was directed to affix *ad valorem* court fee as per the value of the suit property as mentioned in the transfer deed failing which the plaint would be deemed to have been rejected.

6. I have heard learned counsel for the parties.

7. Learned counsel for the petitioner submits that the trial Court erred in holding that *ad valorem* court fee was payable on the value of the suit property as mentioned in the transfer deed. He submits that since the petitioner was not the executant of the transfer deed and was not in possession, he would be liable to pay *ad valorem* court fee but in terms of the provisions of Section 7(iv) (c) and Section



7(v) of the Court Fees Act, 1870 (hereinafter referred to as 'the Court Fees Act') and not as per the value of the suit land as mentioned in the transfer deed. In support of his contentions, he has placed reliance upon the judgments of this Court in the cases of *Shefali Grover versus Pawan Grover 2023 (4) Law Herald 2741* (Law Finder Doc Id # 2404294), *Baldev Singh versus Major Singh 2023 (4) Law Herald 2691* (Law Finder Doc Id # 2404236) and *Dharinder Singh and others versus Anoopjot Kaur and others 2025 (2) Law Herald 1063* (Law Finder Doc Id # 2710964).

8. Per contra, learned counsel for respondent No.2 submits that there is no illegality in the impugned order and that in terms of the provisions of Section 7 (v) of the Court Fees Act, *ad valorem* Court fee as per the value of the suit land as mentioned in the transfer deed would be payable. In support of his contentions, he has placed reliance upon the judgment of this Court and the judgments of Coordinate Benches of this Court in the cases of *Baldev Singh versus Major Singh 2023 (4) Law Herald 2691* (Law Finder Doc Id # 2404236), *Nachhatar Singh (deceased through LRs) versus Atma Singh and another 2019 AIR (Punjab and Haryana) 43* (Law Finder Doc Id # 1381851), *Harbans Kaur versus Amrik Singh @ Beer Singh 2015 (4) Law Herald 3088* (Law Finder Doc Id # 710926), *Chandro versus Randhip Mann and others 2016 (2) RCR (Civil) 1028* (Law Finder Doc Id # 765518) and *Narinder Iqbal Singh versus Sarabjit Kaur 2024 (2) Law Herald 1630* (Law Finder Doc Id # 2633638).

9. I have considered the submissions made by learned counsel for the parties.



10(i). It is well settled that while deciding an application under Order VII Rule XI CPC, only the contents of the plaint and the documents attached thereto are to be seen. Still further, as regards the law on the subject, in the case of ***Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010(3) ICC 182***, the Hon'ble Apex Court held that where the plaintiff is a non-executant, is in possession and sues for a declaration that the deed is null or void, he has to merely pay a fixed Court fee. It was further held that if he is a non-executant and is not in possession and he seeks not only a declaration but also the relief of possession, he has to pay an *ad valorem* Court fee as provided under Section 7(iv)(c) of the Act. It was further held that where the executant of a deed wanted the same to be annulled, he would have to seek cancellation of the deed, whereas in the case of a non-executant, it would be a declaration. It was held that in case of the executant seeking cancellation of the deed, *ad valorem* Court fee would have to be paid on the consideration stated in the sale deed where the plaintiff is a non-executant, is in possession and sues for a declaration that the deed is null or void, he has to merely pay a fixed Court fee. It was further held that if he is a non-executant and is not in possession and he seeks not only a declaration but also the relief of possession, he has to pay an *ad valorem* Court fee as provided under Section 7(iv)(c) of the Act. It was further held that where the executant of a deed wanted the same to be annulled, he would have to seek cancellation of the deed, whereas in the case of a non-executant, it would be a declaration. It was held that in case of the executant seeking cancellation of the deed, *ad valorem* Court fee would have to be paid on the consideration stated in the sale deed.



10(ii). This view has been constantly followed by Coordinate Benches of this Court as also by this Court in the cases of *Shefali Grover versus Pawan Grover* (supra), *Baldev Singh versus Major Singh* (supra), *Dharinder Singh and others versus Anoopjot Kaur and others* (supra), *Nachhatar Singh (deceased through LRs) versus Atma Singh and another* (supra) and *Harbans Kaur versus Amrik Singh @ Beer Singh* (supra).

10(iii). Reverting to the facts of the present case, the petitioner-plaintiff is the son of defendant No.1 Himmat Singh. Defendant No.2 is the other son of Himmat Singh and brother of the petitioner-plaintiff. Defendant No.1 executed a transfer of ownership deed dated 27.10.2014 in favour of defendant No.2. The market value of the land was mentioned as Rs.41,55,000/-. Concededly, the petitioner-plaintiff was not the executant of the said transfer deed, the same having been executed by defendant No.1 in favour of defendant No.2. Further, the petitioner-plaintiff also claimed the relief of possession. In view thereof, in terms of the ratio laid down by the Supreme Court of India in the case of *Suhrid Singh @ Sardool Singh vs. Randhir Singh and others* (supra), *ad valorem* Court fee would be payable in terms of the provisions of Section 7(iv)(c) and Section 7(v) of the Court Fees Act and not in terms of the market value of the land mentioned in the transfer deed. Had the executant of the transfer deed challenged the same, he would have been liable to pay *ad valorem* Court fee at the market value of the land as mentioned in the transfer deed. The trial Court observed in paragraph 8 of the impugned order that *ad valorem* court fee has to be paid under Section 7 (iv)(c) of the Court Fees Act but then went on to hold that *ad valorem* court fee as per the



value of the suit property as mentioned in the transfer deed would have to be affixed. In the considered opinion of this Court, the trial Court erred at this point of time.

10(iv). The judgment in the case of *Narinder Iqbal Singh versus Sarabjit Kaur* (supra) would not come to the aid of the respondents-defendants for it dealt with the case of an executant challenging a transfer deed and not the case of a non-executant challenging a transfer deed.

In view of the aforementioned facts and circumstances, the impugned order is found to be unsustainable. The revision petition is accordingly allowed and the impugned order dated 10.11.2021 is set aside. It is held that *ad valorem* court fee in terms of the provisions of Section 7 (iv)(c) and Section 7(v) of the Court Fees Act would be payable, for which, a period of six weeks is granted to the petitioner-plaintiff to affix the same, if not already affixed, failing which the plaint shall stand rejected.

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

01.09.2025
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(VIKRAM AGGARWAL)
JUDGE

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