



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

RSA-2645-2017 (O&M)

Date of Decision:02.12.2025

MANMOHAN BHASIN

...Appellant

Vs.

VIRENDRA MOHAN BHASIN & ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jasraj Singh, Advocate for the appellant.

Mr. Akshay Bhan, Senior Advocate with
Mr. Rohit Nagpal, Advocate and
Ms. Harleen Mattewal, Advocate
for respondent Nos. 1 and 2.

Mr. Anil Kumar Sharma, Advocate
for respondent No.4.

HARKESH MANUJA, J. (Oral)

1. By way of present appeal, challenge has been made to the judgments and decree dated 18.04.2015 and 27.04.2016 passed by the Courts below whereby the plaint filed the appellant stands rejected.

2. Briefly stated, the present dispute concerns residential property House No. 1615, Sector 7-C, Chandigarh, owned by Sh. Om Prakash Bhasin, who passed away on 10.12.1992, leaving behind two sons, Manmohan Bhasin and Virendra Mohan Bhasin. Pursuant to a registered Will dated 06.02.1985 and a registered Codicil dated 30.09.1991, the property was mutated in favour of Virendra Mohan Bhasin/respondent No.1 on 03.06.1993. Thereafter, respondent No. 1 alienated the same in favour of respondent Nos. 2 and 3 vide two separate sale deeds dated 13.04.2010 and 15.04.2010.



3. Being aggrieved, the appellant, i.e., the other brother, filed a suit for declaration, possession, permanent injunction, and mandatory injunction, challenging the validity of the Will dated 06.02.1985, the Codicil dated 30.09.1991 and, the two sale deeds dated 13.04.2010 and 15.04.2010. Vide order dated 02.09.2014, the learned Trial Court directed the appellant/plaintiff to pay ad valorem court fee on the sale consideration and granted 15 days' time to comply.

4. On 16.09.2014, the appellant/plaintiff filed an application seeking an extension of time to deposit the court fee. In the same application, he also sought clarification from the Court that he was liable to pay only 50% of the ad valorem court fee. The learned Trial Court, by order dated 18.02.2015, rejected the appellant's request regarding the 50% payment, holding that he was required to deposit the full ad valorem court fee calculated on the sale consideration. However, the Court granted him an extension to comply, directing that the full court fee be deposited by 18.03.2015. Despite this, on 18.03.2015, the appellant/plaintiff failed to deposit the required fee and again sought an extension, which was granted by the Trial Court until 18.04.2015. Even after this further extension, the appellant/plaintiff did not deposit the court fee by the stipulated date, which ultimately led to the rejection of his plaint.

5. Aggrieved by the order dated 18.04.2015, the appellant/plaintiff filed Civil Appeal No. 300 of 2015, which was dismissed by the First Appellate Court vide its order dated 27.04.2016. The present appeal is therefore filed, challenging the validity of both the said orders dated 18.04.2015 and 27.04.2016.



6. On 04.07.2023, this Court passed the following order:

“CM-859-C-2023

This is an application filed by counsel for the applicant/appellan for impleading LR's of appellant-Manmohan Bhasin, who died on 19.5.2019. The application is not opposed by counsel for the non-applicants/respondents No.2 to 4.

In view of the above, the application is allowed and the persons mentioned in the application are hereby impleaded as LR's of deceased-Manmohan Bhasin for the disposal of the main appeal, subject to all just exceptions.

Amended memo of parties is ordered to be taken on record.

Main Case

On query being put to the counsel for the appellant, he submits that the appellant is ready to furnish affidavit regarding his readiness to furnish ad-valorem Court fee in compliance of order dated 2.9.2014 passed by the learned trial Court subject to final adjudication of issue relating to Court fee by the said Court, at the time of final disposal of the suit.

Needful be done well in time before the next date of hearing.

Now be listed on 25.7.2023.

In the meanwhile, copy of the order of both the appeals be summoned for the date fixed, alongwith that of the Ld. Trial Court.”

7. Later on 16.07.2025, the following order was passed:

“Learned counsel for the appellant seeks adjournment to obtain instructions as to whether the appellant is ready to pay the Court fee as per the order dated 02.09.2014, without waiting for the final adjudication, although the payment of said Court fee shall be subject to final adiudication and that a specific issue in this regard can be framed by the trial Court. In otherwords, instructions are to be sought for payment of the Court fee as per the consideration mentioned in the sale deed and ultimately if it is found that appellant was not bound to pay the Court fee, then Court fee paid by him shall be liable to be refunded to him.

Adjourned to 21.07.2025.

To be taken up immediately after the urgent list.”



8. Subsequently, on 30.07.2025, this Court passed the following order:

“As per order dated 15.07.2025, an affidavit of Shri Randeep Bhasin, one of the LR's of the deceased-appellants placed on record, however, the said affidavit is not available with the file today.

Per contra, learned Senior Advocate for respondent Nos. 2 and 3 submits that on 15.07.2025, though the affidavit in question was perused by the Court, but it was not taken on record.

The Registry to clarify the same.

Further, on 16.07.2025, the following order was passed:-

" Learned counsel for the appellant seeks adjournment to obtain instructions as to whether the appellant is ready to pay the Court fee as per the order dated 02.09.2014, without waiting for the final adjudication, although the payment of said Court fee shall be subject to final adjudication and that a specific issue in this regard can be framed by the trial Court. In other words, instructions are to be sought for payment of the Court fee as per the consideration mentioned in the sale deed and ultimately if it is found that appellant was not bound to pay the Court fee, then Court fee paid by him shall be liable to be refunded to him".

Learned counsel for the appellant to file an affidavit in compliance with the query sought by the Court vide order dated 16.07.2025.

Adjourned to 12.08.2025."

9. In terms of the aforesaid proceedings, which were carried out on 04.07.2023, 16.07.2025 and 30.07.2025, an affidavit has been filed by one of the legal heirs of the deceased-appellant/plaintiff, vide which it has been stated that the Court fee as directed vide order dated 02.09.2014, shall be paid before the learned trial Court, within 15 days from today. Relevant contents of the affidavit are reproduced herein:



3. *That in compliance thereof, it is categorically submitted that the appellant (through his LRs) is ready to pay Court fee as per the order dated 02.09.2014 passed by the Ld. Trial Court, i.e., as per the consideration mentioned in the sale deed(s), subject to final adjudication on the issue of Court fee by the Ld. Trial Court by framing a specific issue in this regard.*

4. *That furthermore, as observed in order dated 16.07.2025 passed by this Hon'ble Court, ultimately, if it is found that the appellant was not bound to pay the Court fee in terms of the order dated 02.09.2014 passed by the Ld. Trial Court, then the Court fee paid by the appellant in terms of the order(s) of this Hon'ble Court in the present regular second appeal, shall be liable to be refunded to him.*

5. *That the deponent further reserves the appellant's right to challenge any adverse order which may be passed by the Ld. Trial Court including the order on the specific issue of Court fee at the time of final adjudication of the suit, in terms of the abovesaid direction of this Hon'ble Court.*

10. In view of the above, no further adjudication is required in the present appeal. Since there is no opposition from the respondents, the appellant/plaintiff is granted an extension as sought for towards deposit of the court fee. Consequently, the judgments/orders dated 18.04.2015 and 27.04.2016 passed by the Courts below are set aside.

11. In accordance with the above directions and the contents of the affidavit dated 07.08.2025, upon deposit of Court fee by the appellant/plaintiff within 15 days from today, the learned Trial Court is directed to frame a specific issue regarding the liability of the appellant/plaintiff to pay the court fee, in terms of his prayer in the plaint. Further, any deposit of court fee made by the legal heirs of the appellant/plaintiff, as per the affidavit dated 07.08.2025 shall remain subject



to the outcome of the findings recorded by the Courts below on the issue of court fee, as well as the final determination of the suit itself.

12. Keeping in view that the plaint in the present case was filed on 14.03.2011 and the adjudication thereupon is pending for over 14 years, it is made clear that no further extension shall be granted to the appellant/plaintiff for deposit of the requisite court fee as per the affidavit dated 07.08.2025. In the absence of compliance, the plaint shall stand rejected, and no further orders shall be necessary in this regard.

13. Pending application, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

02.12.2025

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