



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

CR-7587-2024

Date of decision : 21.03.2025

Ravinder Singh and others

...Petitioners

Vs.

Harvinder Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
for the petitioners.

Mr. Ram Karan Agnihotri, Advocate
for respondents No. 1 and 2.

Ms. Vibha Tewari, AAG, Haryana
for respondent No.3.

ANIL KSHETARPAL, J. (Oral)

1. While issuing notice of motion on 27.12.2024, the following order
was passed:-

"The petitioner herein is a plaintiff who has filed a civil suit for grant of decree of declaration that transfer deed dated 06.09.2022 executed by defendant No.1 in favour of defendant No.2 with respect to land measuring 17 kanals 17 marlas is illegal.

On application filed by defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908, the Court has directed the petitioner to deposit ad valorem Court fee on the ground that he is not in possession of the property.

Learned counsel representing the petitioner contends that petitioner is non-executant of the transfer deed and therefore, he is not required to seek its annulment. He further submits that the



petitioner has not sought relief of possession. In any case for seeking relief of possession of agricultural land ad valorem Court fee on the market value of the property is not required to be paid.

Notice of motion for 03.03.2025.

In the meantime, the operation and implementation of the order dated 30.11.2024 (Annexure P-1) shall remain stayed. The trial Court is requested to proceed with the suit.

The petitioner shall have liberty to serve the defendants No. 1 and 2 through their counsel Mr. Mange Ram Sharma, District Court Karnal."

2. Learned counsel representing the respondents does not dispute the correctness of facts noticed in the order passed on 27.12.2024, however, he submits that in view of judgment passed in **'Bijender vs. smt. Anju Devi & Ors.'** in CR-3856-2024, decided on 11.03.2024, a person being a non-executant is also liable to pay *ad valorem* Court fee, if he is not in possession and is not seeking possession.

3. This Court has considered the submissions made by the learned counsel representing the parties.

4. In the opinion of the Court, the observations made by the Hon'ble Judge are *per incuriam*. The Hon'ble Supreme Court in **"Suhrid Singh @ Sardool Singh vs. Randhir Singh & Ors."**, 2010 AIR (Supreme Court) 2807 and a Full Bench of this Court in **"Niranjan Kaur vs Nirbigan Kaur"**, 1982, **PLR 127** have categorically held that a non-executant of a document is not required to seek cancellation/annulment thereof. Hence, he or she is not required to pay the *ad valorem* Court fee while seeking relief of declaration. If a non-executant of document does not seek possession, he is only required to file a suit under Section 34 of the Specific Relief Act, 1963 for seeking



declaration that the aforesaid document is not binding on him or her. Moreover, the property in dispute is an agricultural land in Haryana. In any case, for relief of possession of the agricultural land, *ad valorem* Court fee is not payable on its market value. It is payable as per the amendment enforced w.e.f. 31.01.1974 vide Haryana Act No. 11 of 1974 as amended by Haryana Act No. 22 of 1974 enforced from 31.01.1974, which reads as under:-

"As in Haryana

3(a) Where the subject-matter is land other than land situated within municipal limits or Abadi Deh whether under cultivation or not, according to the market value thereof which shall be deemed to be,-

(i) in the case of land which is irrigated by perennial canal, sixty rupees per acre;

(ii) in the case of land which is irrigated by nonperennial canal or by well, fifty rupees per acre; and

(iii) in the case of land which is Barani, Sailab, Bhud, Thur Sem, Banjar or of like nature, thirty rupees per acre; and

(b) Whether the subject-matter is house, garden, or land situated within municipal limits or Abadi Deh whether under cultivation or not, according to its market value."

5. Admittedly, the property is located in village.
6. Consequently, the revision petition is allowed. The impugned order is set aside and the appellant is not required to pay *ad valorem* Court fee on the market value of the property.

21.03.2025
neeraj

(ANIL KSHETARPAL)
JUDGE

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