



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

CR-2534-2026 (O&M)
Reserved on :-24.03.2026
Date of Pronouncement:-01.04.2026
Uploaded on:-02.04.2026

Khushboo Arora

... Petitioner

Versus

Gursahib Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Ms. Isha Goyal, Advocate with
Mr. R.P. Saini, Advocate
for the petitioner.

Mr. A.P.S. Sandhu, Advocate
for the respondent/caveator.

VIRINDER AGGARWAL, J.

1. The present revision petition has been instituted by the petitioner under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court, assailing the order dated 04.11.2025 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Amritsar, whereby the application preferred by the respondent under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, "CPC") has been allowed, allegedly without due consideration of the material facts and circumstances of the case.

2. The essential factual matrix, as borne out from the record, is that the petitioner, claiming to be the owner of the property in question, entered into an agreement to sell dated 15.04.2024 with the respondent for the alienation of the suit property. It is the case of the petitioner that the respondent failed to perform his contractual obligations, having stopped payment of three cheques issued towards earnest money amounting to ₹1,05,00,000/- (Rupees One Crore and Five Lac only), thereby committing a breach of the terms of the agreement. Consequently, the petitioner issued legal notices to the respondent, Gursahib Singh, intimating termination of the agreement and forfeiture of the earnest money.

2.1. Despite service, the said notices remained unreplied. Thereafter, in September 2024, the respondent instituted a civil suit dated 27.09.2024 seeking possession of the suit property along with consequential relief of injunction against the petitioner and her father, wherein it was disclosed that payment had been stopped upon learning that the property was mortgaged with a bank. It is further alleged that the respondent attempted to forcibly take possession of the suit property. In response, the petitioner instituted a civil suit seeking a declaration that the agreement dated 15.04.2024 was a nullity, along with a decree of permanent injunction. The learned Civil Judge, vide order dated 17.10.2024, directed the parties to maintain status quo with respect to the suit property. Subsequently, the petitioner withdrew the relief of declaration vide order dated 03.01.2025 and thereafter instituted the

present suit seeking a declaration of ownership and possession, asserting that the respondent has no right, title, or interest in the property.

2.2. In the said proceedings, the respondent moved an application under Order VII Rule 11 CPC seeking rejection of the plaint, *inter alia*, on the ground that the petitioner was liable to affix ad valorem court fee on the agreement to sell. The said application was contested; however, the learned Trial Court, vide the impugned order dated 04.11.2025, allowed the application and directed the petitioner to deposit the requisite court fee on the agreement to sell, without advertent to the relevant factual and legal aspects. Aggrieved thereby, the present revision petition has been preferred.

2.3. The revision petition has been opposed by the respondent, who had entered appearance by filing a caveat.

3. Having accorded extensive audience to the learned counsel representing the respective parties, and upon a meticulous and judicious perusal of the entire paper-book with the benefit of their erudite assistance, this Court proceeds to record its considered observations.

4. Learned counsel for the petitioner has contended that the impugned order suffers from patent illegality and material irregularity inasmuch as the suit, as framed, is one for declaration simpliciter, wherein the petitioner seeks recognition of his ownership and possession over the suit property, without seeking any relief for cancellation of the agreement to sell. It is thus argued that no ad valorem court fee is payable on the said agreement. It is further contended that the liability to pay court fee must be determined strictly with reference to the relief claimed in the plaint, and in

the absence of any prayer for setting aside or cancellation of the agreement, the direction to affix ad valorem court fee is wholly unsustainable.

4.1. In support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh vs. Randhir Singh and Others, 2010(4) SCC (Civil) 585***, wherein it has been authoritatively held that where a plaintiff seeks a declaration without seeking cancellation of a document, ad valorem court fee is not exigible.

4.2. In the alternative, it has been argued that even assuming, arguendo, that ad valorem court fee is payable, the same cannot be computed on the entire sale consideration reflected in the agreement to sell, but must be confined to the valuation of the relief actually claimed in the suit, which, in the present case, would extend at best to the amount of earnest money. In this regard, reliance has been placed upon the decisions of this Court in ***Harinder Singh Sidhoo and Others vs. Varinder Pal Singh (CR-1223-2015 decided on 02.08.2017)***, as well as the Division Bench judgments in ***Anil Kumar and Others vs. Maninderbir Singh, 2025(2) RCR (Civil) 240***, and ***Subhash Chander vs. Dinesh Kumar and Another, 2026(2) RCR (Civil) 331***.

5. Per contra, learned counsel appearing on behalf of the respondent submitted that the impugned order does not suffer from any illegality, infirmity, or jurisdictional error warranting interference. It was contended that where a party to a document institutes a suit, in substance seeking to annul or avoid the effect of such document, the suit must necessarily be construed as one for cancellation thereof, irrespective of the

form in which the relief has been couched. In such circumstances, the plaintiff is liable to affix ad valorem court fee on the consideration reflected in the document.

5.1. In support of the aforesaid submission, reliance was placed upon the judgment of the Delhi High Court in ***Manoj Kumar Gupta vs. Smt. Sheela Devi and Others, Law Founder ID #1416378***, as well as the authoritative pronouncement of the Hon'ble Supreme Court in ***Shamsher Singh vs. Rajinder Prashad and Others, AIR 1973 SC 2384***, wherein it has been held that mere astuteness in drafting the plaint cannot preclude the Court from examining the real substance of the relief claimed. Further reliance was placed upon ***Faqir Chand vs. Harnam Kaur, (1977) 1 SCR 68***, wherein it was held that a relief, though ostensibly framed as declaratory, may in effect amount to a prayer for setting aside a decree or for consequential relief. Reference was also made to the Full Bench decision in ***Zeb-ul-Nisa vs. Din Mohammad, AIR 1941 Lahore 97***, to contend that the nature of the suit must be determined on the basis of the substantive relief sought and not merely the language employed in the prayer clause and relevant extract is as under:-

“The mere fact that the relief as stated in the prayer clause is expressed in declaratory form does not necessarily show that the suit is for a mere declaration and no more. If the relief so disclosed is a declaration pure and simple and involves no other relief, the suit would fall under Article 17(iii). ”

5.2. Learned counsel for the respondent further contended that the learned Trial Court has rightly concluded that the petitioner-plaintiff is liable to pay ad valorem court fee. Reliance in this regard was placed upon

the judgment of this Court in ***Parveen vs. Adeep Wadhawan, Law Finder Document ID #2338293***, wherein, while relying upon the law laid down by the Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh vs. Randhir Singh and Others (supra)***, it was held that an executant of an agreement to sell seeking its cancellation is required to affix ad valorem court fee.

6. During the course of arguments, learned counsel for the petitioner fairly conceded that the suit, in substance, has been instituted with a view to avoid the agreement to sell, as is also evident from the averments contained in para No.5 of the plaint. It thus emerges that, though the suit has been drafted as one seeking declaration of ownership and possession, the real object of the proceedings is to negate and avoid the agreement to sell, on the premise that the same stands terminated and the earnest money forfeited. In such circumstances, the petitioner, being an executant of the agreement, is, in effect, seeking its cancellation.

6.1. In view thereof, the conclusion recorded by the learned Trial Court to the effect that ad valorem court fee is payable cannot be faulted. However, the contention raised by learned counsel for the petitioner that the direction to pay ad valorem court fee on the entire sale consideration is legally unsustainable merits consideration. It has been consistently held by this Court, *inter alia*, in ***Anil Kumar and Others vs. Maninderbir Singh (supra)***, as subsequently followed in ***Subhash Chander vs. Dinesh Kumar and Another (supra)***, that where a suit is instituted for cancellation of an agreement to sell and forfeiture of earnest money, and where possession has not been delivered, the ad valorem Court fee is

required to be computed on the amount of earnest money alone and not on the entire sale consideration, relevant extract of the same is as under:-

"Since vestment of complete title in the vendor takes place only on the execution of the registered deed of conveyance, and, when at the said stage, the remaining sale consideration is also liquidated by the vendee to the vendor, thus, in the presence of the registering officer concerned... therefore, on the plaintiff concerned, instituting a suit for specific performance... is required to be affixing court fees ad valorem to the entire sale consideration.. However reiterated, as stated (supra) the defendant did not do so, where bys, this Court reiterated concludes, that he is estopped to claim that the plaintiff is ill asserting qua the rendition of a decree for rescinding the agreement to sell... Importantly, when there is no parting of possession of the suit property from the plaintiff to the defendant nor any consequential relief in the said regard became espoused. Resultantly, court fees ad valorem to the asked for forfeited earnest money, but is required to be affixed on the plaint, than court fees ad valorem to the entire sale consideration."

7. This aspect was not the subject matter of dispute in the judgments relied upon by learned counsel for the respondent. In view of the settled position of law, it is held that the petitioner-plaintiff is liable to affix ad valorem Court fee only on the amount of earnest money involved in the agreement to sell. Accordingly, the present revision petition is **disposed of with a modification** in the impugned order to the aforesaid extent.

7.1. It is, however, clarified that in the event the learned Trial Court, at any subsequent stage of the proceedings, arrives at a conclusion that Court fee is required to be computed on the entire sale consideration, the said **issue shall remain open** for adjudication in accordance with law.

7.2. Consequently, the present revision petition stands **partly allowed** in the above terms.

8. It is clarified that the observations recorded here-in-above are confined solely to the adjudication of the present issue and shall not be construed as an expression of opinion on the merits of the underlying dispute. Nothing stated herein shall prejudice or influence the rights, claims, or contentions of the parties in the pending proceedings, nor shall it be treated as a determination of any substantive question of fact or law.

9. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. No separate or independent orders are required in respect thereof, as their adjudication has become wholly infructuous and academic.

01.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No