



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

CR-3230-2019 (O&M)

Date of Decision: May 06, 2026

Bahadur Singh

...Petitioner

Versus

Deepak Wadhawan and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Pradeep Kumar, Advocate
for the petitioner.

Mr.Kabir Sarin and Mr.R.D.Gupta, Advocates
for the respondents.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 18.04.2019 passed by learned Civil Judge (Sr. Divn) in Civil Suit No.717 of 2016, titled 'Bahadur Singh vs. Deepak Wadhawan and another', whereby, a direction was given to affix the ad-valorem Court fee.

In pursuance of the notice issued by the Court, the respondents made appearance through counsel.

Counsel for the parties heard.

The essential facts, to be noticed, are as follows:-

That, initially, the petitioner-plaintiff filed a suit against defendant



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No.1-Deepak Wadhawan as Managing Director of M/s Shiva Build Tech and also arrayed M/s Shiva Build Tech through its Managing Director, Deepak Wadhawan, as defendant No.2. The suit was filed for possession by way of mandatory injunction, after revocation of Vasika No.6819 dated 08.03.2016, vis-a-vis, land measuring 11 bighas 15 biswas, as detailed in the headnote of the plaint, on the basis of the agreement to sell dated 15.12.2015. Besides the same, also mandatory injunction was sought for issuance of direction to the defendants to release the remaining sale consideration amount of Rs.1,68,79,833/-, as per the agreement to sell dated 15.12.2015.

At first instance, respondent-defendant No.1-Deepak Wadhawan had filed an application for issuance of direction to the petitioner (who is plaintiff before the trial Court) to affix *ad valorem* Court fee and on failure thereof, to reject the plaint. In the said application, Deepak Wadhawan-applicant had taken the stand that he does not admit his status qua the company i.e. M/s Shiva Build Tech. Also further, it was asserted that substantive relief, being that of possession, after setting aside the sale deed, to which the plaintiff himself is a party and for the recovery of the amount, the petitioner-plaintiff is required to pay *ad valorem* Court fee. However, the said application was dismissed.

Subsequently, M/s Shiva Build Tech had filed an application for directing the petitioner-plaintiff to affix *ad valorem* Court fee.

It is necessary to pin point that the petitioner-plaintiff himself had filed an application under Order 1 Rule 10 CPC, for joining Smt.Sudha Wadhawan and Smt.Renu Verma, both partners of M/s Shiva Build Tech, as per partnership deed dated 24.02.2016, as a party in the suit. The said



application was allowed and Smt.Sudha Wadhawan and Smt.Renu Verma, were impleaded, being partners of Shiva Tech.

Such being the factual position, though the maintainability of the second application for the same purpose, as such, is questioned, but however, it cannot be said that the application, firstly filed at the instance of respondent-defendant No.1-Deepak Wadhawan, having been disposed of, debars respondent No.2 (who is defendant No.2 before the trial Court) to file an application for seeking issuance of direction to the petitioner-plaintiff to pay the *ad valorem* Court fee. However, Deepak Wadhawan, as such, had no concern with M/s Shiva Build Tech and the petitioner himself had got its partners i.e. Smt.Sudha Wadhawan and Smt.Renu Verma, impleaded, by filing an application under Order 1 Rule 10 CPC.

Proceeding further, it be noted that the suit for possession by way of mandatory injunction, as such, has been filed by the petitioner-plaintiff. It is only by virtue of clever drafting, the suit for mandatory injunction has been filed, though the petitioner is seeking possession after annulment of sale deed No.6819 dated 08.03.2016. Undisputedly, he is signatory to the said document.

Such being the factual position, beneficial reference is made to ***Suhrid Singh @ Sardool Singh vs. Randhir Singh, 2010(2) RCR (Civil) 564***, wherein, the Hon'ble Supreme Court had observed, as herein given:-

“6. Where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed. But if a non-executant seeks annulment of a deed, he has to seek a declaration that the deed is invalid, or non-est, or illegal or that it is not binding on



him. The difference between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance, can be brought out by the following illustration relating to 'A' and 'B' -- two brothers. 'A' executes a sale deed in favour of 'C'. Subsequently 'A' wants to avoid the sale. 'A' has to sue for cancellation of the deed. On the other hand, if 'B', who is not the executant of the deed, wants to avoid it, he has to sue for a declaration that the deed executed by 'A' is invalid/void and non-est/illegal and he is not bound by it. In essence both may be suing to have the deed set aside or declared as non-binding. But the form is different and court fee is also different. If 'A', the executant of the deed, seeks cancellation of the deed, he has to pay ad-valorem court fee on the consideration stated in the sale deed. If 'B', who is a non-executant, is in possession and sues for a declaration that the deed is null or void and does not bind him or his share, he has to merely pay a fixed court fee of Rs. 19.50 5 under Article 17(iii) of Second Schedule of the Act. But if 'B', a non-executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad-valorem court fee as provided under Section 7(iv)(c) of the Act. Section 7(iv)(c) provides that in suits for a declaratory decree with consequential relief, the court fee shall be computed according to the amount at which the relief sought is valued in the plaint. The proviso thereto makes it clear that where the suit for declaratory decree with consequential relief is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7."

In the aforesaid case, three eventualities have been considered by the Hon'ble Supreme Court, firstly, with regard to executant of the deed,

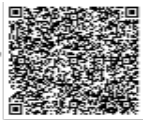


who wanted it to be annulled, he had to seek cancellation of the deed; secondly, the non-executant seeking annulment of the deed, with regard to which, he has to seek declaration that the deed is invalid or non-est; and thirdly, the non-executant seeking declaration that deed is null and void and is also seeking consequential relief of possession. Therein, it was observed that in case of executant seeking cancellation of the deed, he is required to pay the Court fee. However, if the non-executant seeks declaration that the deed is null and void, he is required to pay a fix Court fee, under Article 7(iii) of Second Schedule of the Act. However, where the non-executant, besides declaration, also seeks consequential relief of possession, then he has to pay the *ad valorem* Court fee, as provided under Section 7(iv) (c) of the Act.

Adverting to the case in hand, it is pertinent to note that the petitioner-plaintiff is seeking possession, though clothed the same, by virtue of mandatory injunction, after revocation of sale deed No.6819 dated 08.03.2016 and further also had sought mandatory injunction, directing the defendants to release the remaining sale consideration amount of Rs.1,68,79,833/-.

It is not disputed that the petitioner-plaintiff is signatory to the said deed and also the amount of the sale deed, which is sought to be released, is a specified amount. Filing the suit of mandatory injunction is only an act of clever drafting.

Considering the same, when the annulment of the sale deed, as such, has been sought and the amount has been specified, qua which the petitioner-plaintiff seeks release of the residue sale consideration, therefore,



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he cannot escape the payment of the *ad valorem* Court fee, on the basis of the clever drafting, at his instance.

Such being the factual position, learned trial Court has very correctly directed the petitioner to pay the *ad valorem* Court fee. As such, the impugned order calls for no interference.

Hence, the revision petition sans merit and is hereby dismissed.

The petitioner-plaintiff is directed to furnish ad valorem Court fee, within a period of four weeks from today onwards.

May 06, 2026
Vgulati

Whether speaking/reasoned
Whether reportable

(ARCHANA PURI)
JUDGE
Yes
Yes/No