



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

(135)

CR-3770-2026 (O&M)
Date of Decision: **04.05.2026**

SAVITA RANI

... Petitioner

Versus

PANKAJ KUMAR AND OTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Nitin Goswami, Advocate for
Mr. Namit Khurana, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court to assail the order dated 02.04.2026 (**Annexure P-3**) passed by the learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhri, whereby the application preferred by the petitioner–defendant No.2 under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, “CPC”) seeking rejection of the plaint has been dismissed.

2. The factual backdrop, in brief, is that the respondent–plaintiff instituted a civil suit seeking a decree of declaration for cancellation of sale deed No.1899 dated 22.05.2025, allegedly executed by defendant No.1 in favour of the petitioner–defendant No.2 in respect of the suit property, along with consequential relief of permanent injunction and challenge to the mutation entered pursuant thereto. The suit was valued for



the purposes of court fee and jurisdiction at ₹200/- and a fixed court fee was affixed. The petitioner–defendant No.2, assailing the valuation, moved an application under Order VII Rule 11 CPC, contending that the plaint was liable to be rejected for non-payment of *ad valorem* court fee commensurate with the sale consideration reflected in the impugned sale deed.

3. The said application was contested by the respondent–plaintiff; however, the learned Trial Court, vide the impugned order, dismissed the application, holding the same to be devoid of merit.

4. Learned counsel for the petitioner has vehemently contended that the learned Civil Judge has failed to appreciate the matter in its proper legal perspective and that the impugned order is founded upon conjectures and surmises. It is submitted that a plain reading of the plaint unequivocally reveals that the respondent–plaintiff has sought to assail and invalidate the sale deed executed by defendant No.1 in favour of the petitioner–defendant No.2; consequently, the suit squarely attracts the requirement of payment of *ad valorem* court fee on the consideration reflected in the impugned instrument. It is further urged that the learned Trial Court has erred in law in holding that the question of court fee constitutes a mixed question of law and fact requiring adjudication upon evidence. Such a proposition, it is contended, runs contrary to the settled legal position that the issue of court fee is to be determined on the basis of the averments contained in the plaint alone, without necessitating any evidentiary inquiry or adjudication on merits.



5. It is further contended that the learned Trial Court has failed to ascertain the true nature and character of the suit by piercing the veil of the pleadings. The respondent–plaintiff has not merely sought a simpliciter declaration but has, in substance, prayed for cancellation of a registered sale deed, which, in law, mandates payment of *ad valorem* court fee. The finding returned by the learned Trial Court that the respondent–plaintiff is not an executant of the impugned sale deed and is merely asserting an independent right as a co-sharer is, according to the petitioner, legally untenable and misconceived. The learned Trial Court has recorded its findings in paragraphs 5 and 6 of the impugned order, which read as under:-

5. “In the present case, a bare reading of the plaint discloses that the plaintiff has challenged the sale deed executed by defendant No.1 in favour of defendant No.2 to the extent of his alleged 1/3rd share in the suit property. The plaint further discloses that the plaintiff claims to be in possession of his share and seeks protection of his rights therein. Thus, the plaintiff is not an executant of the impugned sale deed and is asserting his independent right as a co-sharer.
6. In such circumstances, it cannot be said at this stage that the plaintiff is mandatorily required to pay ad valorem court fee on the market value of the entire suit property. The question whether the valuation adopted by the plaintiff is correct or whether additional court fee is payable is a mixed question of law and fact which cannot be conclusively determined without evidence and adjudication on merits.”



6. I have given my thoughtful consideration to the submissions advanced by learned counsel for the petitioner and have meticulously perused the paper-book with his able assistance.

7. It is a well-settled proposition of law that where the executant of an instrument seeks to assail the same as illegal, null-&-void and prays for its cancellation, *ad valorem* Court fee is payable on the consideration reflected in the document. Conversely, where a non-executant seeks a declaration with respect to such an instrument, the court fee payable is only the fixed declaratory fee. This legal position stands conclusively settled by the Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh v. Randhir Singh & Others, (2010) 12 SCC 112***, wherein it has been unequivocally held that in a suit instituted by a non-executant seeking a declaration in respect of a sale deed, the Court fee payable is confined to a fixed declaratory fee and does not attract *ad valorem* computation on the consideration embodied in the impugned instrument.

8. Adverting to the facts of the present case, a meaningful reading of the plaint reveals that the respondent-plaintiff has set up an independent right in the suit property on the basis of inheritance. It is averred that the father of the parties had entered into an agreement to sell dated 05.05.2020 in favour of Smt. Sunita Devi (mother of the plaintiff and defendants No.3 and 4), for valuable consideration, whereupon possession of the property was delivered. A substantial portion of the sale consideration, amounting to ₹6,30,000/-, was paid, leaving a nominal balance. The parties thereafter came into possession of the property and resided therein. Upon the demise of Smt. Sunita Devi on 20.05.2021 and



the subsequent death of the father on 27.04.2024, both intestate, the property is claimed to have devolved equally upon the plaintiff and defendants No.3 and 4, each having a one-third share.

8.1. The grievance of the respondent–plaintiff arises from the execution of the impugned sale deed by defendant No.1 in favour of defendant No.2, allegedly in collusion and with the intent to defeat the lawful rights of the plaintiff. The relief sought is to declare the said sale deed and the mutation sanctioned pursuant thereto as illegal, ineffective, and not binding upon the plaintiff’s rights.

8.2. From the aforesaid pleadings, it is manifest that the respondent–plaintiff is not an executant of the impugned sale deed and is not seeking its cancellation in toto. Rather, he seeks to safeguard and assert his inherited share in the property. The challenge to the sale deed is thus incidental and limited to the extent that it affects his proprietary interest.

8.3. In such circumstances, the learned Trial Court has rightly concluded that *ad valorem* court fee is not prima facie exigible, and that the suit has been properly valued for the purposes of court fee and jurisdiction. The impugned order, therefore, does not suffer from any illegality, perversity, or jurisdictional infirmity warranting interference by this Court.

9. Consequently, finding no merit in the present petition, the same is hereby **dismissed**.

10. It is, however, clarified that the observations recorded here-in-above are confined strictly to the adjudication of the present controversy



and shall not be construed as an expression of opinion on the merits of the underlying dispute. Such observations are limited to the determination of the issues arising in the present proceedings and shall neither prejudice nor influence the rights, claims, or contentions of the parties in any other proceedings. Nothing contained herein shall be treated as a conclusive determination of any substantive question of fact or law in the main matter.

11. In view of the final adjudication of the principal lis, all pending miscellaneous and interlocutory applications, if any, shall stand disposed of by necessary implication, no separate or further orders being required in that regard.

04.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No