



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

105

CR-8336-2025

Date of decision: 10.03.2026

PARAMJIT GILL @ PARAMJEET KAUR @ PARMJIT GILL**...PETITIONER****VERSUS****SANDEEP KUMAR AND OTHERS****...RESPONDENTS**

Present: Mr. Manu Loona, Advocate
for petitioner.

PARMOD GOYAL, J. (ORAL)

The present revision petition has been preferred by the petitioner-plaintiff, who is aggrieved by the impugned order dated 03.10.2025 (Annexure P-5) passed by the Civil Judge (Junior Division), Fazilka, whereby application under Order 7 Rule 11 CPC seeking rejection of the plaint for non-payment of *ad valorem* Court fee, was allowed. It was held that an *ad valorem* Court fee is payable, and the matter was adjourned for payment of the deficient Court fee.

2. It was asserted that earlier, the petitioner-plaintiff, along with her father, constituted a Hindu Joint Family, governed by Hindu Law. That all the properties possessed and purchased by Modan Masih were derived from the income and assets of the joint Hindu family, and, therefore, said property were joint family property. It was alleged that Bashir Masih, along with defendant Nos. 1 to 3, obtained a legal heir certificate by concealing material facts, thereby ignoring the petitioner-plaintiff to give undue

advantage to Jagsir Masih Sandhu. Bashir Masih had allegedly illegally executed transfer deed in favour of the defendants in respect of joint Hindu family/co-parcenary property. It was further contended that the said transfer deed was illegal, being in violation of the notification dated 21.12.2001. Accordingly, the petitioner-plaintiff sought recognition of his rights as a co-parcener and declaration that she is in joint possession. Petitioner-plaintiff has further asserted that transfer-deed dated 29.03.20016 bearing No.4807 dated 30.03.2016 in favour of the respondents-defendants is illegal and void.

3. Apart from challenging the said transfer deed and seeking its quashing, the petitioner-plaintiff had also sought possession of the suit property being co-sharer. Respondent-defendant No.1 filed an application under Order 7 Rule 11 CPC for rejection of the plaint, contending that since the petitioner-plaintiff is seeking setting aside of the transfer deed and claims possession, ad-valorem Court fee was payable on the value of the suit property, which is Rs. 2,00,00,000/-.

4. The said application was opposed by the petitioner-plaintiff on the ground that the suit property is ancestral property, and the suit is based on the petitioner-plaintiff's share therein. The petitioner-plaintiff sought a declaration to the effect that the petitioner-plaintiff, along with respondents-defendants is co-owner to the extent of 1/4th share each in property, viz. Plots No.B-7/1553 to B-7/1559 measuring 20'X60' each = 8400 sq. fts. It was further asserted that the petitioner-plaintiff was not a party to the transfer deed, and no consideration has been passed between the parties in respect of the said transfer deed. Consequently, it was contended that a non-executants of a transfer deed is not required to pay ad-valorem Court fees based on the market value of the property mentioned in the transfer deed.

The application under Order 7 Rule 11 CPC was therefore stated to be a misuse of the process of the Court, and its dismissal was accordingly sought.

5. The learned Court of first instance, after considering the judgment of the Hon'ble Supreme Court in **Suhrid Singh alias Sardool Singh v. Randhir Singh & Ors.**, (2010) 12 SCC 112, held that ad-valorem Court fee was payable by the petitioner-plaintiff. Consequently, the Court allowed the application filed by respondent No.1-defendant No.1 under Order 7 Rule 11 CPC.

6. Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh v. Randhir Singh & Ors.**, (2010) AIR SC 2807 has held as under:

"5. Court fee in the State of Punjab is governed by the Court Fees Act, 1870 as amended in Punjab ('Act' for short). Section 6 requires that no document of the kind specified as chargeable in the First and Second Schedules to the Act shall be filed in any court, unless the fee indicated therein is paid. Entry 17(iii) of Second Schedule requires payment of a court fee of Rs. 19/50 on complaints in suits to obtain a declaratory decree where no consequential relief is prayed for. But where the suit is for a declaration and consequential relief of possession and injunction, court fee thereon is governed by section 7(iv)(c) of the Act which provides :

"7. Computation of fees payable in certain suits : The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :

(iv) in suits - x x x x (c) for a declaratory decree and consequential relief.- to obtain a declaratory decree or order, where consequential relief is prayed, x x x x x according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought:

Provided that minimum court-fee in each shall be thirteen rupees.

Provided further that in suits coming under sub-clause (c), in cases where the relief sought 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 this section."

The second proviso to section 7(iv) of the Act will apply in this case and the valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of the said section. Clause (v) provides that where the relief is in regard to agricultural lands, court fee should be reckoned with reference to the revenue payable under clauses (a) to (d) thereof; and where the relief is in regard to the houses, court fee shall be on the market value of the houses, under clause (e) thereof.

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 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."

7. Therefore, it is clearly made out that in case an executant of the transfer-deed, seeks cancellation of deed, he has to pay ad-valorem Court fee. If a non-executant, who is in possession and sues for declaration that deed is null and void and does not bind him or his share, he has to fix Court fee of Rs. 19.50 under Article 17(iii) of Second Schedule of the Act. However, where a non-executant, who is not in possession and he seeks not only a declaration that sale-deed is invalid, but also seeks 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 suit for a declaratory decree and for 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.

8. In view of the authoritative pronouncement of the Hon’ble Supreme Court in *Surhid Singh alias Sardool* (Supra), the learned Trial Court rightly proceeded to apply the ratio of the said judgment to the facts of the present case and held that ad-valorem Court fee under Section 7(iv)(c) was payable by the petitioner-plaintiff.

9. In the present case reading of plaint goes to show that petitioner-plaintiff has also sought declaration that transfer deed and consequential entries in municipal records on the basis of transfer deed are illegal, void and not applicable on her right. Therefore, petitioner-plaintiff is clearly seeking cancellation of transfer deed. The Hon’ble Supreme Court had held that where the plaintiff is not an executant of the transfer deed seeking cancellation and seeking relief of possession, Court fee is computable under Section 7(iv)(c) of the Court Fees Act, and the Court fee is payable in accordance with Section 7(iv)(c) read with Section 7(v) of the Act.

10. Accordingly, the present petition disposed of with above noted observations.

11. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

10.03.2026
Sunil Chander

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