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

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C.R. No.6255-2025

Date of Decision:11.09.2025

Nahani

...Petitioner

Vs

Sri Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Kunwar Rajan, Advocate
for the petitioner.

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AMARINDER SINGH GREWAL J. (ORAL)

1. The defendant, who is the petitioner before this Court, has filed the present civil revision petition assailing the order dated 20.05.2025 (Annexure P-1) passed by the learned Trial Court, whereby his application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of the plaint, came to be dismissed.

2. In the present revision proceedings, the original plaintiff, who initiated the suit, is now the respondent. Conversely, the original defendant, having filed this petition to challenge the decision of the learned trial Court, is now the petitioner. For clarity, this court will hereinafter refer to the parties by their current designations as petitioner and respondent.

3. In brief, the facts are that plaintiff entered into a registered agreement to sell his agricultural land to the defendant on 04.10.2017 for a total sale consideration of ₹20,00,000/-. The suit property is detailed as a 1/5th share in land under Khewat/Khata No.17/22 (comprising Rect. No. 18, Killa No.1(8-0), 2(8-0), 9(8-0) & Rect. No.20, Killa No.5(8-0), which comes to 6 kanals 8 marlas and Rect. No.20, Killa No.5) and Khewat/Khata No.



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21/26 (comprising Rect. No. 20, Killa No.3 (6-10), 4(8-0) which comes to 2 kanals 18 marlas, totalling 9 Kanals 6 Marlas in the revenue estate of Village Fataskunagar. As per the terms, earnest money of ₹15,00,000/- was agreed upon, out of which the plaintiff avers he received only ₹2,00,000/- in cash. For the remaining ₹13,00,000/-, the defendant issued cheques, including cheque no. 374493 for ₹5,00,000/-, cheque no. 374494 for ₹5,00,000/- and cheque no. 374496 for ₹3,00,000/-. All of these cheques were dated 04.10.2017. However, the plaintiff contended that these cheques were never presented and were returned to the defendant upon his assurance that he would transfer the amount via RTGS, which promise he allegedly failed to honour. It was further pleaded that the target date for execution of the sale deed was 03.09.2018, but was mistakenly recorded as 03.09.2017 in the agreement. The plaintiff asserted that, as the correct date was a public holiday, he remained present at the Sub-Registrar's office on the following day i.e. 04.09.2018, ready to perform his part of the contract, but the defendant failed to appear, pay the balance consideration and get executed the sale deed. Consequently, the plaintiff claimed that due to this fundamental breach, the agreement to sell stood cancelled, the earnest money received was forfeited, and the defendant was left with no right, title, or interest in the suit property. Hence, the present civil suit.

4. Upon notice of the suit, the defendant raised preliminary objections that the plaintiff had concealed material facts and had filed the present suit as a counterblast to the defendant's earlier suit. It was pleaded that an agreement to sell dated 04.10.2017 was duly executed and registered before the Sub-Registrar, Hassanpur, for a consideration of ₹20,00,000/-. On the same day, the plaintiff received ₹15,00,000/- as earnest money, out of



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which ₹2,00,000/- was paid in cash and for remaining amount of ₹13,00,000/- cheques were given, which were immediately returned by the plaintiff and received the said amount in cash and executed an affidavit acknowledging such payment. The defendant further stated that the photocopy of the said affidavit was annexed with the written statement. The defendant submitted that the plaintiff was estopped by his own conduct, never intended to execute the sale deed, and was then trying to grab defendant's money. It was further averred that legal notices dated 29.08.2018 and 08.09.2018 were served upon the plaintiff to complete the sale transaction, but the plaintiff failed to appear. Allegations of fraud or non-payment were denied. On these grounds, the defendant prayed for dismissal of the suit with costs.

5. Subsequently, the defendant also filed an application under Order VII Rule 11 CPC for rejection of the plaint. It was averred therein that the plaintiff had filed the present suit for declaration in respect of an amount of ₹13,00,000/-, but had not paid the requisite ad valorem court fee as mandated under law. According to the defendant, the plaintiff was bound to affix ad valorem court fee on the amount involved, and in the absence of such payment, the suit was not maintainable. It was thus prayed that, for non-filing of proper court fee, the application be allowed and the plaint be rejected.

6. Notice of the application was issued to the plaintiff, who filed reply contending that the application was misconceived and had been moved only to delay the proceedings. It was submitted that the relief claimed was in the nature of declaration without possession, and therefore ad valorem court fee was not payable. All other averments of the defendant were denied.



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7. Upon hearing both sides and considering the record, the learned trial Court held that for deciding an application under Order VII Rule 11 CPC, only the averments made in the plaint are to be seen. Since the plaintiff has sought declaration without consequential relief of possession, ad valorem court fee is not required. Reliance is placed on the judgment of the Hon'ble Supreme Court in *Mayar (H.K.) Ltd. v. Owners and Parties, Vessel M.V. Fortune Express AIR 2006 SC 1828, and Gurdev Singh v. Harvinder Singh, 2022 LiveLaw (SC) 963*. Accordingly, the application under Order VII Rule 11 CPC was held to be not maintainable and was accordingly dismissed. Aggrieved thereby, the petitioner has filed the present revision petition challenging the legality and jurisdiction of the impugned order.

8. Learned counsel for the petitioner, *inter alia*, contends that the impugned order dated 20.05.2025 passed by the Learned Civil Judge (Junior Division), Hodal, whereby the application under Order VII Rule 11 CPC seeking rejection of the plaint was dismissed, is contrary to the settled principles of law. It is further submitted that the respondent/plaintiff, by adopting clever drafting, has sought the substantial relief of cancellation of a registered Agreement to Sell dated 04.10.2017 (Vasika No. 550), despite being himself the executant thereof, without affixing the mandatory ad valorem court fee. It is urged that the respondent, while alleging fraud and default on part of the petitioner in payment of consideration, has deliberately concealed the fact that he had returned the cheques of ₹13,00,000/- and received the equivalent amount in cash under a duly attested affidavit at the time of registration of the agreement. The petitioner further submits that the suit is false, frivolous, and a counterblast to the petitioner's own suit for specific performance (CS No. 529/2018). It is thus submitted that the plaint,



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having been filed without payment of requisite ad valorem court fee and with suppression of material facts, was liable to be rejected, but the Trial Court dismissed the application on untenable grounds without assigning cogent reasons. In support of these submissions, learned counsel for the petitioner has placed reliance upon various authoritative pronouncements of the Hon'ble Supreme Court i.e. *Suhrid Singh v. Randhir Singh*, (2010) 12 SCC 112; *Baljeet Singh v. Krishna Devi*, CR-3664 of 2015, decided on 21.03.2018; *Manjit Singh v. Surjit Singh*, CR-3305 of 2017, decided on 03.02.2020; *Harinder Singh Sidhoo v. Varinder Pal Singh*, CR-1223 of 2015, decided on 02.08.2017; *Gurjinder Kaur v. Tej Kaur*, CR-7301 of 2016, decided on 03.07.2018; and *Gurjit Singh v. Baljit Singh*, CR-399 of 2021 (O&M), decided on 05.08.2024.

9. Considering the circumstances of the case and to prevent undue delay in the disposal of the matter, the Court dispenses with the issuance of notice to the respondent.

10. I have heard learned counsel for the petitioner and perused the record with his assistance. Before addressing the relief sought, it is essential to understand the concept of court fee. Court fee is the amount payable to the State by every litigant while filing a civil suit, akin to stamp duty, and is governed by the Court Fees Act, 1870. It is somewhat like a stamp duty, and the law governing this is contained in the Court Fees Act, 1870. Under the Act, there are broadly two types of court fees:

(I) Fixed Court Fee – which is a small fixed sum, applicable when a person who is not a party (executant) to a document simply seeks a declaration that such document does not bind him.



- i. **Example:** If A alleges that a sale deed executed by B in favour of C is fraudulent, and A was never a party to it, then A needs to pay only a fixed nominal court fee.
 - ii. **Type of suits:** Suits for *declaration* without consequential relief, e.g., declaring a will, power of attorney, or deed void as against a non-party.
 - iii. **Reason:** Since the plaintiff never signed the document, he is not cancelling it but only saying it does not affect him. Therefore, his financial stake is not directly measured in money terms, so only a fixed fee is charged.
- (II) Ad valorem Court Fee** – the words *ad valorem* are Latin, meaning “according to value.” This type of court fee is calculated on the actual value of the document or transaction in dispute.
- i. **Example:** If a person himself has executed an agreement of ₹1 Crore and later files a suit to cancel that very agreement, then he must pay court fee calculated on ₹1 Crore.
 - ii. **Type of suits:** Suits for *cancellation of agreements, sale deeds, gift deeds, mortgages, or any document* where the plaintiff himself is the executant.
 - iii. **Reason:** Since the plaintiff created a binding financial obligation by executing the document, and is now trying to undo it, the law requires him to pay court fee proportionate to the value of the document. In simple words, higher the document value, higher the court fee.

11. This principle has been laid down authoritatively by the Hon’ble Supreme Court in *Suhrid Singh v. Randhir Singh, (2010) 12 SCC 112* and reaffirmed in *Sardool Singh v. Randhir Singh, (2010) 14 SCC 527*, holding that where the executant of a document seeks cancellation, ad valorem court fee is mandatory; where a non-executant challenges it, fixed fee suffices. And relevant part of the judgement is reproduced herein below:-



“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”

12. Applying this settled law to the present case, the plaintiff is himself the executant of the Agreement to Sell dated 04.10.2017 for ₹20,00,000/-. Therefore, in terms of Section 7(iv)(c) of the Court Fees Act, 1870, he is legally bound to affix *ad valorem* court fee on the sale consideration mentioned in the agreement. It is also necessary to notice provisions of Order VII Rule 11(b) & (c) of the Code of Civil Procedure, 1908. Sub-clause (b) provides that if the relief claimed has not been properly valued and the plaintiff fails to correct it despite being required to do so, the plaint shall be rejected. Sub-clause (c) further provides that if the



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plaint is insufficiently stamped, i.e., proper court fee has not been paid, and the defect is not cured within the time granted by the Court, the plaint shall also be rejected.

13. In simple words, if the plaintiff does not pay the correct court fee or incorrectly values the suit, the case cannot proceed and will be outrightly rejected. Furthermore, on a careful examination of the pleadings and submissions, this Court finds that the revision petition is meritorious and deserves to be allowed.

14. The plaintiff has admitted to being a party to the Agreement to Sell dated 04.10.2017 for a sale consideration of ₹20,00,000/- yet instead of candidly seeking cancellation of the same, he has couched his relief in the form of a declaration that the agreement is null and void, coupled with a prayer for injunction. This Court cannot be oblivious to such clever drafting which is clearly designed to evade the mandatory payment of ad valorem court fee. It is trite that litigants cannot be permitted to do indirectly what the law does not allow them to do directly. The Trial Court, however, failed to appreciate the true nature of the suit and mechanically held that a fixed court fee suffices. In doing so, it not only ignored the express language of Section 7(iv)(c) of the Court Fees Act, 1870, but also shut its eyes to binding precedents of the Hon'ble Supreme Court and this Court. In the present case, the respondent has filed suit for declaration with respect to earnest money of Rs.13 lakhs, which allegedly was not paid by the petitioner herein but while laying a challenge to the same, he did not affix the *ad valorem* court fee, thus, the plaint suffers from a fundamental defect of valuation and insufficient stamping. Consequently, it attracts the bar under Order VII Rule 11CPC, and the plaint is liable to be rejected.



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15. In view of the above discussion, this Court is of the considered opinion that the learned trial Court gravely erred in dismissing the petitioner's application under Order VII Rule 11 CPC. Resultantly, the impugned order dated 20.05.2025 passed by the learned trial is not sustainable and is accordingly set aside. The application under Order VII Rule 11 CPC filed by the petitioner-defendant is allowed and the respondent-plaintiff is directed to make good the deficiency of *ad valorem* court fee within a period of two months from the date of receipt of certified copy of this order on the amount of Rs.13 lakhs with respect to which declaration is sought, failing which, the plaint shall be treated as rejected.

16. Since the petition is being allowed without issuing notice to the respondent-plaintiff, he shall be at liberty to file an appropriate application in case any fact has been misconceived or concealed before this Court or by showing sufficient cause for recalling of this order.

(AMARINDER SINGH GREWAL)
JUDGE

September 11, 2025

Pankaj*

Whether speaking/reasoned

Yes

Whether reportable

Yes