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

CR-642-2025

Date of decision:-03.04.2025

Narinder Kaur and others

...Petitioners

Versus

Balwinder Kaur and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**

**Present** : Mr. S.P.S. Khaira, Advocate  
for the petitioners.

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**SUVIR SEHGAL, J.(ORAL)**

1. Aggrieved of order dated 04.09.2024 passed by the learned Additional Civil Judge (Sr. Divn.), Khamanon, whereby an application filed under Order 7 Rule 11 CPC has been dismissed, petitioners/defendants have approached this Court by way of instant revision petition.

2. Counsel for the petitioners submits that the respondents/plaintiffs filed a suit for declaration to the effect that along with proforma defendants, they are joint owners of 5/6<sup>th</sup> share i.e. 1/6<sup>th</sup> share each in the suit property. They have sought a declaration to the effect that gift deeds dated 05.11.2018 and 07.01.2019 executed by



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defendant No.1 in favour of defendants No.2 and 3 are null and void and not binding on their rights. Relief of permanent injunction was also sought restraining defendants No.2 and 3 from alienating the suit land. Upon being served, petitioners/defendants No.1 to 3 filed an application, Annexure P2, for rejection of the plaint on the ground of inadequate Court fee. Counsel submits that the application has been erroneously declined by the Trial Court vide the impugned order. It is his argument that as the respondents/plaintiffs are the non-executants of the gift deed under challenge and are seeking joint possession of the suit property, they are bound to pay ad valorem Court fee.

3. I have heard counsel for the petitioners and considered his submissions besides examining documents appended with the paper-book.

4. Dispute regarding affixation of Court fee on the plaint has been settled by a Division Bench of this Court in **Tarsem Singh and others Versus Vinod Kumar and others, 2011 SCC Online P&H 8146.**

While interpreting the provisions of Court Fees Act, 1870 (for short “the Act”), it has been observed as under:

*“(i) If the executant of a document wants a deed to be annulled, he is to seek cancellation of the deed and to pay advalorem Court fee on the consideration stated in the said sale deed.*

*(ii) But if a non-executant seeks annulment of deed i.e. when he is not party to the document, he is to seek a declaration that the deed is invalid, non-est, illegal or that it is not binding upon him. In that eventuality, he is to pay the fixed Court fee as per Article*



*17 (iii) of the Second Schedule of the Act.*

*(iii) But if the non-executant is not in possession and he seeks not only a declaration that the sale deed is invalid, but also a consequential relief of possession, he is to pay the advalorem Court fee as provided under Section 7 (iv)(c) of the Act and such valuation in case of immovable property shall not be less than the value of the property as calculated in the manner provided for by Clause (v) of Section 7 of the Act.”*

5. A perusal of the plaint, Annexure P1, shows that the plaintiffs have challenged the gift deeds executed by defendants amongst themselves. Plaintiffs are not signatory to the gift deeds. Plaintiffs pleaded that defendants have ousted them from the suit property in the month of August, 2020 and they are entitled for joint possession of the suit property. Plaintiffs are the non-executants of the gift deed and by way of relief, they are seeking joint possession of the suit property. Plaintiffs' case falls in category (iii) of the above reproduced observations. They are, therefore, bound to furnish Court fee in terms of Section 7 (iv) (c) of the Act. As laid down by the Division Bench, such evaluation in the case of immovable property is not to be less than the value of the property as calculated in the manner provided under Section 7 (v) of the Act. The plaintiffs have calculated the Court fee payable on the basis of the annual land revenue as mentioned in the jamabandi. Plaintiffs are not to be fastened with the liability of affixing ad valorem Court fee for the relief of possession. As adequate Court fee



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has been affixed by the plaintiffs, Trial Court has not committed any error in declining the application. No interference is called for in the impugned order.

6. Petition being devoid of merit is dismissed with no order as to costs.

**(SUVIR SEHGAL)**  
**JUDGE**

**03.04.2025**

**Brij**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**