

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

CR-3182-2024 (O&M)**Date of Decision: 27.03.2025**

SARBAN SINGH @ SHRWAN SINGH

. . . . Petitioner

Vs.**MANGAT RAM AND OTHERS**

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms. Diksha Sharma, Advocate, for
Mr. Vaibhav Mittal, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Petitioner herein is defendant No.1 before the trial Court of Id. Additional Civil Judge (Sr. Division), Naraingarh in Civil Suit No.25 of 2019 titled *Mangat Ram and another Vs. Sarban Singh and others*. He (*petitioner*) is aggrieved by the order dated 30.01.2024 passed by trial Court, whereby his application under Order VII Rule 11 CPC for rejection of the plaint on ground of non payment of *ad valorem* court fee, has been dismissed.

2. It is contended by Id. counsel that as plaintiffs has assailed gift deeds and transfer deed and also sought possession of the property in dispute, so they (*plaintiffs and respondents No.1 & 2 herein*) were required to pay the *ad valorem* court fee.

3. Perusal of the paper-book would reveal that plaintiffs had challenged the validity of gift deeds dated 29.01.1998, 08.01.2001, 24.08.1998 and 10.07.2020, besides transfer deed dated 30.08.2016 on the ground of fraud.

4. Heard. Paper book perused.

5. The documents assailed by the plaintiff, as per the plaint (*Annexure P2*) had been executed by late Babu Ram. Plaintiffs were thus not the executants of the impugned deeds.

6 Apart from above, perusal of the plaint (*Annexure P2*) would further reveal that plaintiffs simply sought decree of declaration and consequential relief of permanent injunction to restrain the defendants from alienating the suit property or creating any charge thereon. Plaintiffs did not claim the relief of possession.

7. In the aforesaid circumstances, Id. trial Court has rightly held that when neither the plaintiffs were executants of the impugned gift deeds/transfer deeds nor they had sought the possession of the suit property, they were not required to pay *ad valorem* court fee. Learned trial Court has rightly placed reliance upon ***Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others, 2010 (2) RCR 564.***

8. In ***Tarsem Singh and others Vs. Vinod Kumar and others, 2011 (31) RCR (Civil) 709***, Hon'ble Division Bench of this Court explained the ratio of law by Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh (Supra)***, 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 ad valorem 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 ad-valorem 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.”

9. In view of the aforesaid legal position, it is clear that plaintiffs being the non-executants of the impugned deeds are not required to pay the *ad valorem* court fee, when they are not seeking possession.

10. Consequently, this Court does not find any illegality or perversity in the impugned order. Holding the present revision to be devoid of any merit, the same is hereby dismissed.

27.03.2025

Vivek

**(DEEPAK GUPTA)
JUDGE**

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes
No