



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

**CR-6166-2019 (O&M)**

**Date of Decision : 05.08.2025**

Umed Singh Rathi ... Petitioner(s)

Versus

Devender Rathi & Ors ... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Kartar Singh Malik, Advocate for the petitioner.

Ms. Parbeen Kumari Dharwal, Advocate for  
Ms. Gunjan Mehta, Advocate for respondent Nos.1 and 2.

Respondent No.3 proceeded against *ex parte*  
vide order dated 09.12.2019.

**ALKA SARIN, J. (Oral)**

1. The present revision petition has been preferred by the plaintiff-petitioner challenging the impugned order dated 21.08.2019, whereby an application filed by defendant-respondent Nos.1 and 2 under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) had been allowed and the plaintiff-petitioner was directed to pay ad valorem court fee.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner stated in the plaint that he was owner in possession of a residential property bearing House No.50 Ward No.22 total measuring 737.77 sq. yds. situated at Kishan Pura, Rohtak which had been inherited by him from his father. It was further averred that the said property was in the name of the plaintiff-petitioner in the record of the Municipal Corporation, Rohtak and the defendant-respondent Nos.1 and 2 had also been residing with the plaintiff-petitioner. The plaintiff-petitioner filed an application under the Right to

Information Act, 2005 and learnt that the defendant-respondent No.3-Municipal Corporation, Rohtak, had transferred the property in the name of the defendant-respondent No.2 - Neeru Rathi - at the instance of the defendant-respondent No.1 herein on the basis of a registered release deed dated 16.03.2004 without there being any right of ownership in favour of the defendant-respondent No.1. An application was filed by the defendant-respondent Nos.1 and 2 for rejection of the plaint on the ground of deficiency of court fee. Reply was filed to the said application and vide the impugned order dated 21.08.2019, the plaintiff-petitioner herein was directed to affix ad valorem court fee. Hence the present revision petition.

3. Learned counsel for the petitioner would contend that the plaintiff-petitioner is the father and the property stood in the name of the plaintiff-petitioner, however, in connivance with the Municipal Corporation, Rohtak, the son i.e. defendant-respondent No.1 executed a registered release deed in favour of his wife (defendant-respondent No.2) and got the property transferred. It is further the contention of the learned counsel that the property was never transferred in the name of the defendant-respondent No.1 and he had no right to execute a release deed in favour of his wife and, therefore, it is a clear case of fraud. Hence, no ad valorem court fee would be payable. In support of his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Ors. [2010 (12) SCC 112]**.

4. Learned counsel for respondent Nos.1 and 2 would contend that since the possession has been sought and, therefore, ad valorem court fee would be payable. In support of her argument, she has also relied upon the judgment of the Hon'ble Supreme Court in the case of **Suhrid Singh (supra)**

5. I have heard the learned counsel for the parties.

6. In the present case, from the pleadings of the case it is being stated to be a case of fraud, wherein the defendant-respondent No.1 had transferred the property in favour of his wife (defendant-respondent No.2) without there being any right, title or interest in favour of the defendant-respondent No.1. The property as per the plaintiff-petitioner was owned and possessed by him and he is in possession of the suit property. It is, therefore, stated to be a case of fraud. The plaintiff-petitioner himself is in possession of the suit property.

7. In *Suhrid Singh's case* (supra), the Hon'ble Supreme Court has laid down certain parameters for ascertaining the Court fees payable. The principles as laid down in the aforesaid judgment are :

*“(a) If the executant of a document/deed wants to seek its annulment, then he is to seek cancellation of the same and to pay ad valorem Court fee on the consideration stated in the said document/deed.*

*(b) If an non-executant of a document/deed seeks annulment of a deed, then he is to seek declaration that the deed is invalid, non-est, illegal and is not binding upon him. He has to pay fixed Court fee as per Article 17(iii) of the Second Schedule of the Act.*

*(c) If the non-executant of a document/deed is not in possession and he seeks not only a declaration of the deed/document to be illegal, but also seeks possession, then he has to pay ad valorem Court as provided under Section 7(iv) (c) of the Act and such valuation in case of*

*immoveable property shall not be less than the value of property as calculated in the manner provided for by Clause (v) of Section 7 of the Act.”*

8. The question as to how much court fee is required to be paid is governed by the above principles laid down in *Suhrid Singh's case* (supra). If a non-executant who is in possession of the property seeks to get a document annulled, then his case would be governed by the second principles of *Suhrid Singh's case* (supra) and he is required to pay the court fee of ₹19.50 as per Article 17(ii) of the Second Schedule of the Court Fees Act, 1870. In the present case the petitioner is stated to be owner in possession in the plaint. It is not a case where the plaintiff is out of possession and is seeking possession, rather the categorical stand is that he is in possession. Thus, since the plaintiff-petitioner is already in possession, as averred in the plaint, while seeking to get the release deed declared as null and void on the basis of a fraud and being a non-executant, he is not required to pay *ad valorem* court as per the market value under Section 7(iv)(c) of the Court Fees Act, 1870.

9. In view of the above, the impugned order dated 21.08.2019 is not sustainable in law and the same is hereby set aside. The present revision petition stands disposed off. Pending applications, if any, also stand disposed off.

10. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

05.08.2025  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO