



CR-5563-2025 (O&M)

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

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**CR-5563-2025 (O&M)
Reserved on :- 20.08.2025
Pronounced on:-26.08.2025**

Rasampreet Kaur

...Petitioner

VERSUS

Gurbaksh Singh and Another

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Hitesh Ghai, Advocate for the petitioner.

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MANDEEP PANNU J.

1. The present revision petition has been filed by the plaintiff/petitioner challenging the order dated 15.07.2025 passed by the learned Civil Judge (Junior Division), Payal in CS No. 271 of 2023, titled "Rasampreet Kaur v. Gurbaksh Singh and Another", whereby the application filed under Order VII Rule 11 CPC by the defendants-respondents was allowed and the plaintiff/petitioner was directed to make good the deficiency in court fee by paying ad valorem court fee on the sale consideration recited in the impugned sale deeds.

Brief Facts

2. The plaintiff filed a civil suit challenging sale deeds dated 26.08.2021, 31.12.2021, and 17.05.2022 executed by defendant No. 1 in favour of defendant No. 2. The consideration of the three sale deeds is ₹15,10,000, ₹16,20,000 and ₹14,60,000 respectively, totalling ₹45,90,000. The defendants contended that court fee of ₹1,07,625 was payable, whereas the plaintiff had paid only ₹250.



3. It was pleaded by the defendants that the plaintiff was not in possession of the suit land, and therefore, in terms of Section 7(iv)(c) read with Section 7(v) of the Court Fees Act, 1870 ad valorem fee was payable.

4. The plaintiff, in reply, denied the averments and contended that she was in possession of the suit property. It was further submitted that she had correctly valued the suit at ₹2,500 for purposes of court fee and jurisdiction and paid court fee of ₹250, as the suit was one for declaration and injunction.

Findings of the Trial Court

5. The learned trial Court, after hearing both sides, held that the plaintiff was seeking declaration that the sale deeds were illegal, void, and not binding upon her. Although she was not an executant of the sale deeds, she had also sought injunction restraining defendant No. 2 from alienating or transferring the possession of property and changing the nature of the property by raising construction.

6. Relying on the judgment of the Hon'ble Supreme Court in *Suhrad Singh @ Sardool Singh v. Randhir Singh and Others, (2010) 12 SCC 112*, the trial Court observed that where a non-executant seeks cancellation of a document, he need not pay ad valorem court fee on the consideration. However, if such non-executant is not in possession and seeks, in effect, the consequential relief of possession, then ad valorem court fee on the market value or consideration is payable.

7. The Court recorded that in the present plaint, the plaintiff/petitioner had pleaded ownership, but her possession over the suit land was disputed. She herself pleaded that the revenue record did not reflect her name and that mutations were not sanctioned in her favour. Further, the prayer clause included a permanent



injunction against dispossession. These averments implied that she was not in settled possession. Therefore, though she had not sought explicit relief of possession, in substance the suit involved recovery of possession.

8. Accordingly, the trial Court held that the plaintiff was bound to pay ad valorem court fee on the total consideration of ₹45,90,000 under Section 7(iv)(c) read with Section 7(v) of the Court Fees Act and directed her to do so.

Submissions of learned counsel for the petitioner

9. Assailing the order, learned counsel for the petitioner argued that the trial Court had misread the plaint. It was specifically pleaded that the plaintiff was the owner in possession. Defendant No. 1 had executed transfer deeds in her favour, though mutations were not sanctioned. Defendant No. 2, by deceit, got executed the impugned sale deeds by taking defendant No. 1 to the Sub-Registrar under pretext of lease. The plaintiff continued in possession, and therefore she was only required to pay fixed court fee. Reliance was placed on *Sunil Kumar v. Jit Karan Lal, 2015 (2) RCR (Civil) 385*, where this Court held that in a suit for declaration that gift deeds were illegal, where plaintiff was already in possession, fixed fee sufficed.

Findings

10. I have considered the submissions of learned counsel for the petitioner. The distinction laid down by the Hon'ble Supreme Court in *Suhrid Singh @ Sardool Singh v. Randhir Singh, 2010(2) RCR (Civil) 564*, is clear:

- a) Where the executant himself seeks to annul a deed, he must seek cancellation and pay ad valorem court fee on the consideration stated.



b) Where a non-executant seeks declaration that a deed is invalid, he pays fixed fee as per Article 17(iii) of Schedule II, if he is in possession.

c) But where such non-executant is not in possession and seeks, in substance, recovery of possession, then ad valorem court fee under Section 7(iv)(c)/7(v) is payable.

11. In the present plaint, the petitioner has pleaded ownership but has simultaneously averred that the transfer deeds executed in her favour were not mutated in the revenue record and that defendant No. 2 is threatening to alienate and he be restrained from transferring the suit land and from changing the nature by raising construction over it. This relief presupposes that her possession was either not recognised or under challenge. Importantly, the relief claimed against the sale deeds, coupled with the injunction, necessarily involves recovery of possession if the plaintiff's plea of ownership succeeds.

12. In *Neelavathi v. N. Natarajan, (1980) 2 SCC 247*, it was held that where possession is admitted, fixed court fee suffices, but where possession is disputed, court fee must be paid as for possession.

13. Applying these principles, the learned trial Court rightly concluded that although the plaintiff did not expressly claim possession, the plaint read as a whole discloses that she was not in settled possession. Therefore, the relief in substance was declaration coupled with possession, attracting ad valorem court fee.

14. The reliance placed by the petitioner on *Sunil Kumar v. Jit Karan Lal (2015) 2 RCR (Civil) 385* is misplaced, as in that case possession of the plaintiff was admitted. In the present case, possession is specifically disputed and



injunction against dispossession has been prayed, which shows that the suit involves consequential relief of possession.

Conclusion

15. This Court is of the considered opinion that the order of the trial Court suffers from no illegality.

16. In view of the above, the revision petition is dismissed. The impugned order dated 15.07.2025 is upheld.

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

August 26, 2025

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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No