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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:10.07.2025

GURNAM SINGH

...PETITIONER

VS.

MANJIT KAUR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. T.P.S. Makkar, Advocate
for the petitioner.

SUVIR SEHGAL, J.

1. By way of instant revision petition, petitioner/defendant No.3 has assailed order dated 17.12.2024, Annexure P-4, passed by the learned Additional Civil Judge (Senior Division), Budhlada, whereby an application filed by him under Order 7 Rule 11, CPC, has been dismissed.

2. Counsel for the petitioner submits that respondent No.1/plaintiff has filed a suit, Annexure P-1, for joint possession of the suit land and also for declaration to the effect that sale deeds and transfer deeds in favour of the defendants are null and void. He submits that she has also challenged that the mutation entries entered upon on the basis of the said documents besides seeking permanent injunction. Counsel asserts that the plaintiff filed a suit by affixing inadequate court fee. He asserts that as plaintiff is claiming possession of the suit property, she is bound to deposit ad-valorem Court fee. He has placed reliance upon the judgment of the Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others (2010) 12**



SCC 112, to contend that plaintiff is bound to deposit ad-valorem Court fee based on the sale consideration and the Trial Court has erred in rejecting the application filed by the petitioner.

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

4. Following the judgment rendered by the Apex Court in *Surhid Singh's case (supra)*, a Division Bench of this Court in *Tarsem Singh and others Vs. Vinod Kumar and others* 2011 SCC Online P&H 8146 has held 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. An examination of the plaint, Annexure P-1, filed by respondent No.1/plaintiff shows that she has filed a suit for joint possession of suit land claiming that she has inherited 1/4th share from father Buta Singh



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and for declaration to the effect that Harnam Singh in connivance with the revenue officials has succeeded in getting the suit land mutated in his favour on the basis of some transfer deeds and sale deeds. Plaintiff has challenged the transfer deeds and sale deeds, to which, she is not a party and is seeking joint possession of the land alongwith the defendants. She is not a signatory to documents challenged by her. Her case clearly falls in category (iii) of the above reproduced observations and she was required to furnish Court fee in terms of Section 7 (iv) (c) of the Court Fee Act, 1870 (for short "the Act"). As laid down by the Division Bench in *Tarsem Singh's case(supra)*, 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. Plaintiff has calculated the Court fee payable on the basis of the annual land revenue as is evident from perusal of the plaint. She cannot be fastened with the liability for affixing ad-valorem Court fee calculated on the consideration mentioned in the sale instruments. As adequate Court fee has been affixed, Trial Court has not committed any error in declining the application. Impugned order neither suffers from any irregularity, nor does not call for any interference.

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

10.07.2025

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

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No