



240

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

CR-942-2018

Date of decision: 03.09.2025

Priya Singh and another

...Petitioners

Versus

Hem Lata and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Johan Kumar, Advocate and
Mr. Akshit Mehta, Advocate for the petitioners.

Mr. Raman Kumar, Advocate for
Mr. Yash Dev Kaushik, Advocate for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 04.12.2017 (Annexure P-4) passed by the Civil Judge (Junior Division), Faridabad whereby an application filed by the respondents/defendants under Order 7 Rule 11 CPC for rejection of the plaint on the ground of non-payment of ad valorem Court fees, has been allowed and the petitioners-plaintiffs have been directed to pay ad valorem Court fees as per the sale consideration in the sale deed dated 28.01.2015.

2. Learned counsel for the petitioners has submitted that in the present case, the petitioners had filed a suit for declaration with



consequential relief of permanent injunction with the averment that the sale deed executed by the defendants with the present petitioners was by playing fraud upon the petitioners, inasmuch as, the petitioners had only taken a loan from the defendants and the defendants had obtained the signatures of the petitioners on blank papers and some stamp papers in the Tehsil complex by informing the petitioners that they would be preparing mortgage deed but instead prepared a sale deed. It is submitted that in the said situation, the petitioners were not liable to pay the ad valorem Court fee as per the sale consideration recorded in the sale deed and thus, the application moved by the respondents-defendants under Order 7 Rule 11 CPC for rejection of the plaint on account of non-deposit of ad valorem Court fee and the impugned order dated 04.12.2017, vide which the said application had been allowed, are against law and deserve to be set aside. It is submitted that the application filed by the respondents-defendants under Order 7 Rule 11 CPC is meritless and deserves to be rejected.

3. Learned counsel for the respondents, on the other hand, has submitted that it is not in dispute that the petitioners were parties to the sale deed and the trial Court, vide impugned order, after relying upon the law laid down by the Hon'ble Supreme Court in the case of *Suhrid Singh @ Sardool Singh Vs. Randhir Singh and others* reported as (2010)12 SCC 112, had allowed the application filed by the respondents-defendants and had directed the present petitioners to pay the ad valorem Court fee as per the sale consideration recorded in the sale deed dated 28.01.2015. It is submitted that the impugned order is in accordance with law and deserves to be upheld and the present revision petition deserves to be dismissed.



4. This Court has heard learned counsel for the parties and has perused the paper book.

5. The Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh's*** case (Supra) had observed that in case a person is an executant of the sale deed, then, he has to seek for cancellation of the deed and in case he is not an executant of the deed and only wants to avoid it, then he can file a suit for declaration to the effect that the same is not binding on him. It was further held that in case a person is an executant of the deed, then, he would be required to pay the ad valorem Court fee on the consideration recorded in the sale deed. Relevant portion of the said judgment is reproduced hereinbelow:-

“6. Where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed. But if a non-executant seeks annulment of a deed, he has to seek a declaration that the deed is invalid, or non-est, or illegal or that it is not binding on him. The difference between a prayer for cancellation and declaration in regard to a deed of transfer/conveyance, can be brought out by the following illustration relating to `A' and `B' - two brothers. `A' executes a sale deed in favour of `C'. Subsequently `A' wants to avoid the sale. `A' has to sue for cancellation of the deed. On the other hand, if `B', who is not the executant of the deed, wants to avoid it, he has to sue for a declaration that the deed executed by `A' is invalid/void and non- est/ illegal and he is not bound by it. In essence both may be suing to have the deed set aside or declared as non-binding. But the form is different and court fee is also different. If `A', the executant of the deed, seeks cancellation of the deed, he has to pay ad-valorem court fee on the consideration stated in the sale deed.



If 'B', who is a non-executant, is in possession and sues for a declaration that the deed is null or void and does not bind him or his share, he has to merely pay a fixed court fee of Rs. 19.50 under Article 17(iii) of Second Schedule of the Act. But if 'B', a non-executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad-valorem court fee as provided under Section 7(iv)(c) of the Act. Section 7(iv)(c) provides that in suits for a declaratory decree with consequential relief, the court fee shall be computed according to the amount at which the relief sought is valued in the plaint. The proviso thereto makes it clear that where the suit for declaratory decree with consequential relief is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7."

6. In the present case, as has been observed by the trial Court in the order dated 04.12.2017, which fact has not been disputed before this Court, the petitioners were parties to the sale deed and are executants of the same. Although, the petitioners have filed a suit for declaration but, in effect, the petitioners are seeking cancellation of the said sale deed and thus, as per the law laid down by the Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh's*** case (Supra), they are required to pay the ad valorem Court fee as per the sale consideration recorded in the sale deed dated 28.01.2015. The impugned order is thus, in accordance with law and deserves to be upheld.

7. The Hon'ble Supreme Court in the case of ***"Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil"***, reported as ***(2010) 8***



Supreme Court Cases 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

8. Keeping in view the above, this Court is of the opinion that the impugned order dated 04.12.2017 does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the said impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

03.09.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No