



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

CR-153-2024 (O&M)

Date of Decision : 30.07.2025

Gurinder Singh ... Petitioner(s)

Versus

Satnam Kaur & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Goyal, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India challenging the impugned order dated 21.11.2023 (Annexure P-1) whereby the application filed by the defendant-petitioner under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) for rejection of the plaint has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 to 4 herein filed a suit for declaration with joint possession and permanent injunction as consequential relief under Section 34 of the Specific Relief Act, 1963. In the suit it was averred that the defendant-petitioner herein had got a mutation sanctioned in his name on the basis of a family transfer dated 18.05.2016 alleged to have been executed by his father – Lal Singh. The transfer deed was challenged as being null and void, illegal, inoperative, ineffective and nonest qua the rights of the plaintiff-respondent Nos.1 to 4 and proforma respondent Nos.5 to 8. It was further claimed that the property is ancestral in nature and Lal Singh was the *Karta* of the joint Hindu

family and the property was transferred to the defendant-petitioner herein without any legal necessity. Written statement was filed. Subsequently, an application was filed for rejection of the plaint on the ground that the market value of the land was ₹1,08,54,375/- as mentioned in the transfer deed. Reply was filed to the said application and vide the impugned order dated 21.11.2023 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that in the transfer deed the Collector rate of the property was mentioned and, therefore, *ad valorem* court fee ought to have been affixed and it was not payable as per Section 7(iv)(c) of the Court Fees Act, 1870. It is further the contention of the learned counsel that since the plaintiff-respondent Nos.1 to 4 had sought possession, hence, *ad valorem* court fees would have to be affixed. In support of his contentions, he has relied upon the judgment of this Court in the case of **Gurpreet Kaur & Rani & Anr. Vs. Gurjit Singh & Ors. [CR No.422 of 2010 decided on 08.08.2014]**.

4. I have heard the learned counsel for the defendant-petitioner.

5. In the present case the suit had been filed for declaration by the plaintiff-respondent Nos.1 to 4, who are the sisters of the defendant-petitioner herein, challenging a transfer deed alleged to have been executed by the father – Lal Singh – in favour of the defendant-petitioner herein. Learned counsel for the defendant-petitioner has contended that since the value of the property was mentioned in the transfer deed, hence, *ad valorem* court fees ought to have been affixed. On a query by the Court as to whether the property had been purchased by the defendant-petitioner, learned counsel for the defendant-petitioner candidly admits that it was not a case of purchase but a

case of transfer. However, the value of the property was mentioned in the transfer deed. The suit is for declaration on the ground that the property is coparcenary property and the same had been transferred in favour of the defendant-petitioner without there being any legal necessity. It has further been candidly admitted by the learned counsel for the defendant-petitioner that there is no reason which has been given in the transfer deed for transferring the entire property to the defendant-petitioner.

6. Hon'ble Supreme Court in the case of **Suhrid Singh @ Sardool Singh vs. Randhir Singh & Ors. [2010 (12) SCC 112]** has held as under :

“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.

7. In this case, there is no prayer for cancellation of the sale deeds. The prayer is for a declaration that the deeds do not bind the "co-parcenery" and for joint possession. The plaintiff in the suit was not the executant of the sale deeds. Therefore, the court fee was computable under section 7(iv)(c) of the Act. The trial court and the High Court were therefore not justified in holding that the effect of the prayer was to seek cancellation of the sale deeds or that therefore court fee had to be paid on the sale consideration mentioned in the sale deeds."

7. The case of the present suit is at par with the case of **Suhrid Singh @ Sardool Singh** (supra) inasmuch as a declaration had been sought that the transfer deed is not binding on the rights of the plaintiff-respondents and no cancellation of the same is being sought. Further still, the prayer is for joint possession and, therefore, as per law laid down in the case of **Suhrid Singh @ Sardool Singh** (supra), the court fees would be computable under

Section 7(iv)(c) of the Court Fees Act, 1870. The judgment relied upon by the counsel for the defendant-petitioner would not come to his aid in view of the law laid down by the Hon'ble Supreme Court.

8. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off. Any observation made herein shall not be treated as an expression of opinion on the merits of the case.

30.07.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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