

(2012) 03 P&H CK 0126

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 804 of 2011

Smt. Gajna

APPELLANT

Vs

Manoj Kumar and Another

RESPONDENT

Date of Decision: March 27, 2012**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 7 Rule 11, 151
- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J**Bench:** Single Bench**Advocate:** B.K Bagri, for the Appellant; Sumeet Sangwan, for the Respondent**Final Decision:** Dismissed

Judgement

L.N. Mittal, J.

Plaintiff Smt. Gajna feeling aggrieved by order dated 9.9.2010, Annexure P/4 passed by learned Civil Judge (Junior Division), Rewari has filed this revision petition under Article 227 of the Constitution of India to challenge the said order. Plaintiff - petitioner has filed suit challenging release deed dated 28.8.2006 allegedly executed by her on the ground of fraud etc. Defendants moved application Annexure P/2 under Order 7 Rule 11 read with section 151 of CPC (in short, CPC) for direction to the petitioner - plaintiff to pay ad valorem court fee on the value of the suit property. Plaintiff by filing reply Annexure P/3 opposed the said application. Learned trial court vide impugned order Annexure P/4 directed the plaintiff to pay ad valorem court fee. Feeling aggrieved, plaintiff has filed this revision petition.

2. I have heard Learned Counsel for the parties and perused the case file.

3. Counsel for the petitioner contended that since the release deed has been challenged on the ground of fraud, the plaintiff - petitioner is not liable to pay ad valorem court fee. The contention cannot be accepted. Plaintiff - petitioner is party to the release deed in question having allegedly executed the same. Consequently,

the plaintiff - petitioner is liable to pay ad valorem court fee. In this view, I am supported by judgment of Hon"ble Supreme Court in the case of [Suhrid Singh @ Sardool Singh Vs. Randhir Singh and Others,](#) . Consequently, the plaintiff - petitioner has been rightly directed by the trial court to pay ad valorem court fee. There is no infirmity much less illegality, perversity or jurisdictional error in impugned order of the trial court so as to call for interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

4. However, before concluding, it has to be noticed that defendants-respondents in their application Annexure P/2 alleged the value of the suit property to be Rs 50 lacs, but plaintiff - petitioner in her reply Annexure P/3 controverted the said plea of the defendants. Consequently, the trial court shall determine the market value of the suit property and ad valorem court fee shall be paid accordingly by the plaintiff - petitioner. Subject to observation in the preceding paragraph, the instant revision petition is dismissed being meritless.