(2012) 03 P&H CK 0157

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3991 of 2011

Kamlesh Soni	APPELLANT
Vs	
Sita Ram and Others	RESPONDENT

Date of Decision: March 14, 2012

Acts Referred:

- Court Fees Act, 1870 - Article 17, 7

Hon'ble Judges: Nawab Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Nawab Singh, J.
This plaintiff"s revision is directed against the order dated January 28th, 2011 passed by Civil Judge (Senior Division), Rewari, whereby, she was directed to pay the ad-valorum Court fee. Learned counsel for the petitioner has urged that neither the plaintiff is executant of the sale deeds challenged by her nor is she claiming possession of land. Hence, she is not required to pay ad-valorum Court fee.

2. In Tarsem Singh and others vs. Vinod Kumar and others Civil Revision No. 4753 of 2005 decided on January 04, 2011 a Division Bench of this Court after relying upon the judgment of Hon"ble Supreme Court rendered in Suhrid Singh @ Sardool Singh Vs. Randhir Singh and Others, and a judgment passed by a Division Bench of this Court in Dara Singh vs. Gurbachan Singh and others (Civil Revision No. 22 of 2009 decided on May 03rd, 2010), while commenting upon the provisions of the Court-Fees Act, 1870, 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 ad valorem 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 ad valorem Court fee as provided u/s 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.

3. In this case, the plaintiff is challenging the sale deeds executed by defendant No. 1 in favour of his co-defendants to which she is neither party nor is she claiming possession of land hence, she is not required to pay ad-valorum Court fee. This being so, the revision petition is allowed and the order under challenge is set-aside. The plaintiff is not required to pay ad-valorum Court fee.