

(34) Before parting with this judgment, it deserves to be noted that the civil suit filed by the Improvement Trust No. 148 of 1997 for recovery of the mesne profits was adjourned *sine-die* because of the pendency of instant case. The District Judge, Jalandhar be asked to direct the trial Court to take up the said civil suit on priority and proceed to decide the same expeditiously and preferably within a period of one year on receipt of copy of this judgment. With regard to observations of this Court while deciding the instant RSA where the relief of injunction has been refused, the Improvement Trust is well within its right and can remove the appellants from the property in dispute even by use of force.

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*S. Gupta*

***Before R .P. Nagrath, J***

**UDHAM SINGH — *Petitioner***

*versus*

**TEJBIR SINGH AND ANOTHER — *Respondents***

**CR No. 324 of 2015**

January 14, 2015

***Court Fees Act, 1870—Ad valorem fee—Sale deed signed by minor—Signature alleged to be obtained by fraud—Sale deed executed on behalf of minor through guardian on better footing than case of the petitioner—Petitioner to pay court fee under Section 7 (iv) (c) of the Act and not under Article 17 (iii) of the Second Schedule of the Act as claimed since that applies in case of non-executant of sale deed—Petition dismissed.***

*Held*, that learned counsel for the petitioner submits that in the said case the sale deed was executed for the minor through guardian but here is a case where the sale deed purported to be signed by the petitioner. I am of the view that the instance of a sale deed executed through guardian is on a better footing than the present case where the sale deed bears the signatures of the petitioner, which otherwise is stated to have been obtained by fraud.

(Para 6)

S.S. Nara, Advocate *for the petitioner.*

**R. P. NAGRATH, J. (Oral)**

(1) The challenge in the instant petition is to the order dated 08.08.2014, passed by the trial Court whereby the petitioner was directed to pay *ad valorem* court fee on the sale consideration of the impugned sale deed dated 28.12.2007.

(2) Learned counsel for the petitioner submits that though the petitioner is signatory to the sale deed but he was minor at that time. It is contended that date of birth of the petitioner-plaintiff is 24.11.1991 and he was about 16 years and one month old at that time. It is further contended that signatures of the petitioner were obtained by fraud. The other executants of the sale deed in question are; mother, grandmother and paternal uncle of the petitioner.

(3) I have heard learned counsel for the petitioner, perused the impugned order and the paper-book.

(4) Learned counsel for the petitioner relies upon judgment of the Hon'ble Supreme Court in ***Suhrid Singh @ Sardool Singh versus Randhir Singh and others***<sup>1</sup>, wherein it was held that if the suit is filed by non-executant of the sale deed, the plaintiff has to pay court fee of an amount of ` 19.50 ps. under Article 17 (iii) of Second Schedule of the Court Fees Act, 1870 and not under Section 7(iv)(c) of the Court Fees Act.

(5) The controversy similar to the instant case has been considered by this Court in ***Sombir Singh versus Khujani Devi and others***<sup>2</sup>, where the sale deed was executed on behalf of the minor through mother as the guardian. This Court in that case observed as under:-

“6. I have carefully considered the aforesaid contention, but find no merit therein. In fact, judgment of Hon'ble Supreme Court in the case of ***Suhrid Singh (supra)*** goes against the petitioner in the instant case. It has been held in that judgment that if executant of the sale deed challenges the same, he has to pay *ad valorem* court fee on the consideration stated in the sale deed. In the instant case, the impugned sale deeds have been executed in the name of the petitioner-plaintiff, although through his mother as his guardian as the petitioner-plaintiff was then minor. However, the fact remains that the sale deeds have been executed on behalf of the

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<sup>1</sup> (2010) 12 SCC 112

<sup>2</sup> 2010 (4) Law Herald 2860

petitioner himself. Consequently, the petitioner is the executant of the sale deeds in question and it cannot be said that petitioner's mother is executant of the sale deeds and petitioner is not executant thereof. Consequently, following the judgment of Hon'ble Supreme Court in the case of **Suhrid Singh** (*supra*) the petitioner has to pay ad valorem court fee on the consideration recited in the impugned sale deeds. There is, therefore, no illegality in the impugned order of the lower appellate court. In so far as judgment of this Court in the case of **Dara Singh** (*supra*) is concerned, only observations of Hon'ble Supreme Court in the case of **Suhrid Singh** (*supra*) have been quoted and nothing more has been added to the same by way of principle of law or precedent. Consequently, in view of aforesaid judgments relied on by counsel for the petitioner himself, it cannot be said that there is any illegality in the impugned order of the lower appellate court. On the other hand, impugned order of the lower appellate court finds full support from judgment of Hon'ble Supreme Court in the case of **Suhrid Singh** (*supra*), as followed by Division Bench of this Court in the case of **Dara Singh** (*supra*).

(6) Learned counsel for the petitioner submits that in the said case the sale deed was executed for the minor through guardian but here is a case where the sale deed purported to be signed by the petitioner. I am of the view that the instance of a sale deed executed through guardian is on a better footing than the present case where the sale deed bears the signatures of the petitioner, which otherwise is stated to have been obtained by fraud.

(7) In view of the above, I find the order passed by the trial Court to be quite correct and there is no scope of interference in exercise of revisional jurisdiction.

(8) Dismissed.

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*S. Gupta*