

- (ii) The compensation becomes due from the date of accident and not from the date of order of adjudication by the Commissioner, and
- (iii) the employer has been given thirty days' cushion and interest shall start running and liable to be paid after thirty days of the accident.

(7) In this view of the matter, the submission of the counsel for the appellants is convincing and is on the lines of the provisions made in the Act, and that of the counsel for the respondent Insurance Company is not tenable.

(8) For the reasons given hereinbefore, the appeal is accepted partly. The appellants are held to be entitled to the amount of compensation of Rs.2,65,204/- from the date of death of deceased, that is March 30th, 2005, and would be entitled to interest thereon with effect from thirty days thereafter, that is April 30th, 2005 till the amount of compensation was deposited by the Insurance Company.

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*J.S. Mehndiratta*

*Before Nawab Singh, J.*

**TARSEM SINGH AND OTHERS,—Petitioners**

*versus*

**VINOD KUMAR AND OTHERS,—Respondents**

**Civil Revision No. 4753 of 2005**

4th January, 2011

*Constitution of India, 1950 - Art.227 - Court Fees Act, 1870 - 2nd Schedule - Art.17(iii) - Suit filed by plaintiffs for declaration and permanent injunction - Sought declaration to the effect that sale deed executed by their father was null and void - Civil Court directed them to pay the ad valorem court fee - Order challenged by way of revision - Matter referred to large Bench - Division Bench laid down principle - Revision allowed - Held, if a person who is not a party to a document, seeks it, annulment, he is to pay court fee as per Art.17(iii) of Second Schedule of the Court Fees Act.*

*Held*, After relying upon the judgment of the Hon'ble Supreme Court rendered in *Suhridd Singh @ Sardool Singh vs. Randhir Singh and others*, AIR 2010 Supreme Court 2807 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 under Section 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."

(Para 3)

*Further held*, that indisputably, in this case, plaintiffs were not the executants of the documents, which they sought to be annulled, nor they are seeking possession of the suit land and, as such, their case falls under paragraph No.(ii), quoted above.

(Para 4)

*Further held*, that in view of this, the plaintiffs - petitioners were not required to pay ad valorem court fee, but to affix court fee as per Article 17(iii) of the Second Schedule of the Court Fee Act, 1870.

(Para 6)

Jai Singh Yadav, Advocate for Sachin Mittal, Advocate for the petitioners.

Sanjiv Gupta, Advocate for the respondents.

**NAWAB SINGH J. (ORAL)**

This plaintiffs' revision is directed against the order dated August 18th, 2005 passed by Civil Judge (Junior Division), Karnal, whereby, plaintiffs were directed to pay ad valorem court fee in a suit titled "Tarsem Singh and others vs. Vinod Kumar and others". The suit for declaration with consequential relief of permanent injunction was filed challenging the sale deed executed by their father after passing of the judgment and decree dated December 21st, 1987 in Civil Suit No.481/87, whereby, they were declared owners in possession of the suit land and to set aside the judgment and decree dated January 31st, 1991 passed in Civil Suit No.813 of 1990 by Civil Court, Karnal.

(2) When this revision was listed before Ajay Tewari, J. on July 24th, 2009, he found some contradictions in the judgments earlier passed by this Court and the matter was referred to the Division Bench. The Division Bench vide order dated July 15th, 2011 framed the following question:-

“Whether plaintiff in a suit challenging sale-deed executed by his father or a third party is liable to pay ad valorem court fee on the sale consideration recited in the sale deed?”

(3) After relying upon the judgment of the Hon'ble Supreme Court rendered in **Suhrid Singh @ Sardool Singh versus Randhir Singh and others (1)** 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.

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(1) AIR 2010 SC 2807

- (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 under Section 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.”

(4) Indisputably, in this case, plaintiffs were not the executants of the documents, which they sought to be annulled, nor they are seeking possession of the suit land and, as such, their case falls under paragraph No.(ii), quoted above.

(5) The legal position has been fairly conceded by the counsel for the respondents – defendants.

(6) In view of this, the plaintiffs - petitioners were not required to pay ad valorem court fee, but to affix court fee as per Article 17(iii) of the Second Schedule of the Court Fee Act, 1870.

(7) This being so, revision is accepted. Order, under challenge is set aside. Consequently, the plaintiffs are not required to pay ad valorem court fee as directed by the Trial Court.

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***J.S. Mehndiratta***

***Before Tejinder Singh Dhindsa, J.***

**DARSHAN SINGH,—Appellant**

***versus***

**JOGINDER SINGH,—Respondent**

**RSA No.4013 of 2010**

9th February, 2012

***Code of Civil Procedure, 1908 - S.100 - Plaintiff instituted a suit for possession by way of specific performance of agreement to sell dated 27.5.2002 - Defendant/Appellant contested the suit - In the written statement he pleaded that land was ancestral - He used to borrow small amounts from people as he was an alcoholic and drug addict - He further pleaded that agreement to sell was a forged and fabricated document as he had already mortgaged the suit land in favour of a bank - Trial court decreed the suit in favour of plaintiff - Appeal dismissed - Defendant filed RSA - Dismissed holding that***