

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE (SENIOR DIVISION), HAPUR
original Suit No. 64 of 2024**

Reg No-136 of 2022

CNR N- UPHP050002452022

Smt Kusum

Versus

Hari singh etc

ORDER ON ISSUE NO. 4 AND 5

1- The case was called out today. Both parties appeared through their respective learned counsel. The matter is fixed for disposal of issue no. 4 and issue no. 5, which were framed as follows:

Issue No. 4: Whether the suit has been properly valued by the plaintiff?

Issue No. 5: Whether the court fee paid by the plaintiff is sufficient?

2- Both parties were heard at length on these issues. The court has carefully perused the pleadings, examined the plaint, the nature of reliefs sought, the valuation disclosed, the court fee paid, and considered the submissions advanced on behalf of both parties as well as the record of the case.

3- Upon meticulous scrutiny of the plaint and the reliefs claimed by the plaintiff, it emerges that the plaintiff has sought three principal reliefs in the suit: firstly, a decree of permanent injunction restraining the defendants from dispossessing her or interfering with her peaceful possession and enjoyment of the ancestral house and agricultural land; secondly, a declaratory decree regarding her share and title in the ancestral properties; and thirdly, a declaration that the sale deed dated 27.04.2022, executed by defendant no. 1 in favour of a third party, is void and ineffective in so far as it affects the plaintiff's rights.

4- The plaintiff has valued the entire suit property, inclusive of both the immovable properties and agricultural land, at Rs. 12,00,000/- for the purposes of jurisdiction. In terms of court fees, the plaintiff has paid a sum of Rs. 500/- in respect of the relief of permanent injunction and Rs. 200/- in respect of the declaratory relief, totaling Rs. 700/-. The court fee has thus been deposited on the basis that fixed fee is applicable for these reliefs.

5- The question that falls for determination is whether the suit has been properly valued by the plaintiff in accordance with law and whether the court fee paid is sufficient for the reliefs claimed. The statutory provisions governing valuation and court fees, as applicable in the present jurisdiction, require that in suits where the principal relief involves the cancellation or declaration of nullity of a sale deed or other instrument affecting immovable property, the valuation for the purposes of court fees is to be made on the market value of the property comprised in such instrument. The relief of mere declaration of title or share in the property may, in certain cases, attract a fixed fee if it is unaccompanied by consequential relief; however, when the

declaration sought is coupled with the challenge to an existing instrument of title, such as a sale deed, which directly affects the plaintiff's rights, then the valuation cannot be limited to a fixed fee.

6- A suit which seeks not only declaration of rights but also challenges a sale deed executed by another party, and which is asserted to adversely affect the plaintiff's proprietary rights, is not a suit for a bare declaration but a suit in which the principal relief is the avoidance or cancellation of the said instrument. In such cases, it is mandatory that the plaintiff values the suit for court fee purposes at the market value of the property affected by the sale deed and pays court fees on an ad valorem basis.

7- In the instant matter, the plaintiff has prayed for a declaration that the sale deed in question is void and ineffective as against her rights, in addition to seeking protection of her possession by way of a permanent injunction. Such relief is substantive in nature and not merely ancillary. The fact that the plaintiff has also pleaded that she has valued the property for jurisdiction at Rs. 12,00,000/- further establishes the monetary value at stake and the gravity of the claim. The relief of permanent injunction, though also claimed, is consequential to the main relief relating to title and challenge to the sale deed.

8- The law imposes a duty on the court to examine not merely the form of the reliefs but the real substance and nature of the claim set out in the plaint. Where the plaintiff has limited the payment of court fees to a fixed sum without reference to the market value of the subject property, in the face of prayers involving cancellation or avoidance of a registered instrument affecting such property, the court is bound to require payment of the ad valorem court fee on the value of the property.

9- In view of the foregoing, it is abundantly clear that the suit, in so far as it relates to the prayer for cancellation or declaration of nullity of the sale deed, has not been properly valued for court fee purposes, nor has sufficient court fee been paid. The plaintiff was required to pay ad valorem court fee on the market value of the property affected by the impugned sale deed, but has failed to do so.

10- Accordingly, it is ordered that the suit, to the extent it relates to the prayer for cancellation or declaration of nullity of the sale deed dated 27.04.2022, has not been properly valued and the court fee paid is insufficient. The plaintiff is directed to pay the requisite ad valorem court fee on the market value of the property concerned within a period to be specified by this Court. In default of such compliance, the suit, so far as it seeks the relief of cancellation or declaration of nullity of the sale deed, shall be liable to be rejected under the relevant provisions of law.

Order accordingly.

Put up on: 27-05-2025 for further proceedings.

Date: 20-05-2025

(Aditya Jaiswal)

Additional Civil Judge (S.D.) 1st, Hapur