

What does it cost to cancel a sale deed?

The payment of court fee is significantly high and depends on the kind of legal relief sought by parties

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LEGAL REMEDIES

Our previous column addressed the legalities of cancellation of sale deed of an immovable property. To summarise, where sale of immovable property has been made absolute by transfer of ownership of the property from the seller to buyer, the sale deed may be subsequently annulled or cancelled by the parties only by executing a conveyance deed for re-conveyance. In civil suits for cancellation of sale deed, court fees is usually significantly high, which is why it is important to also understand court fee implications.

Nature of legal relief

The court fee which is payable by a litigant in a civil suit is closely linked to what kind of legal relief he is seeking. Let's take an example of X and Y who both want to seek legal relief of cancellation of sale deed in two independent cases.

In the first case, X is a buyer who, after execution of the sale deed, subsequently discovered that the seller had misrepresented material facts of the property. Hence, X wants to have the sale deed annulled. In the second case, Y is a joint

owner of an undivided property, who discovers that his co-owner has sold the entire property to a third person, without taking Y's consent and without having made Y a party to the sale deed. The main difference above is that while X is a party to the sale deed of which he seeks cancellation, Y is not a party to the sale deed in question. However, the law provides for both X and Y to have their respective sale deeds annulled. Although X and Y are suing for annulment of sale transaction, there is a difference in the form of legal relief they are entitled to seek and court fee implications.

This difference was highlighted in *Suhrid Singh Sardool Singh v Randhir Singh and others* (2010). In this case, the Supreme Court held that if a person seeking annulment is a party to the deed, he should seek the relief of cancellation. On the other hand, a person who is not a party to a deed but whose interests are affected by it, may seek the relief of declaration. Both cases have very different court fee implications.

PAY FOR RELIEF

In civil suits for cancellation of sale deed, court fees may be significantly high

The court fee which is payable by a litigant in a civil suit is closely linked to what kind of legal relief he is seeking

In a suit for cancellation of sale deed, court fees are to be calculated on the basis of value of the property given in the sale deed

As a party to the sale deed, X is required to pay court fee on ad valorem basis (based on the value of the property set out in the sale deed). As a result, the higher the total sale price, the greater would be the court fees payable by X. The court fees payable by Y (who is not a party to the sale deed) would depend on whether or not he has possession of such property. In case Y has possession of the property, and sues for a declaration that the sale deed is invalid, he has to pay a fixed nominal court fee as prescribed under the Court Fees Act, 1870. However, if Y is not in possession of the property, and seeks the relief of declaration along with the relief of regaining possession,



Y has to pay court fees on ad valorem basis, ie, on the value of the property.

Sale price vs market value

Recently, an interesting issue on the method of calculation of court fees in a suit for cancellation of sale deed under the provisions of Andhra Pradesh Court Fees and Suits Valuation Act, 1956, came up in *Polamrasetti Manikyam and*

Another vs Teegala Venkata Ramayya and another (2014). In this case, the Supreme Court heard arguments on whether valuation of the suit should be done on the basis of current market value or on the basis of value of the property mentioned in the sale deed. The apex court held that in a suit for cancellation of sale deed, court fee is to be calculated on the basis of value of the property given

in the sale deed. This ruling has important implications given that market value of property rises, even steeply, with time.

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