

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Transfer Application No. 445 of 2012 (O&M)
Date of decision: 23.4.2015

Asha Rani and others

.. Applicants

v.

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vivek Salathia, Advocate for the applicants.

Mr. K. S. Chawla, Advocate for respondents No. 3, 5 and 6.

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Rajesh Bindal J.

Prayer in the present application is for transfer and clubbing of the suits, as mentioned in the application.

Learned counsel for the applicants submitted that Rajinder Singh, son of petitioners No. 1 and 2, who was working as Constable in Punjab Armed Police, expired on 7.4.2009. Applicants No. 1, 3 and 4 filed a suit at Amritsar for declaration claiming that they are the only legal heirs of deceased-Rajinder Singh and further prayer was made for directing the official defendants therein for release of service/pensionary benefits of the deceased to the plaintiffs therein. Prayer was also made for restraining the official defendants from releasing the pensionary benefits to defendant No. 3 in the suit filed. Another suit was filed by respondents No. 3, 5 and 6 while adding applicants No. 3 and 4 as plaintiffs, at Chandigarh, *inter-alia*, seeking injunction against the official defendants from releasing terminal benefits on account of death of Rajinder Singh to defendants No. 4 and 5 (applicants No. 1 and 2 herein). Third suit was filed by respondents No. 3, 5 and 6 against applicants No. 1 and 2 at Jalandhar, *inter-alia*, claiming

damages for harassment etc. The submission is that as in the aforesaid three suits, the parties are common and the issues are also related, the same may be transferred to one court to avoid contradictory judgments.

On the other hand, learned counsel for respondents No. 3, 5 and 6 submitted that there are material concealments in the application filed by the applicants. In fact, the suit filed at Amritsar was time-barred. There was no cause of action to file the suit there. In case, the plea of the applicants is that parties and the issues involved in the three suits are same, the remedy is not to transfer or club the cases, which are pending at different courts, rather, the applicants could seek the relief under Section 10 CPC, in case they are able to prove that the issues involved in the suit are same. No case for transfer or clubbing of the three suits pending at three different places can possibly be made out. He further submitted that for the relief claimed in the three suits, where the issues are yet to be framed, it is too early to state that the claim made in the three suits are identical and those should be clubbed and heard together. In fact, respondents No. 3, 5 and 6 have been cheated by applicants No. 1 and 2. Respondent No. 3 is the second wife of deceased-Rajinder Singh. She had been living with the family, however, after the death of Rajinder Singh, she was forcibly shunted out and the object of the family is to take all the terminal benefits depriving respondents No. 3, 5 and 6 of the same.

Heard learned counsel for the parties and perused the paper book.

The prayer in the present application is for transfer and clubbing of the three suits, first pending at Amritsar, second pending at Chandigarh and third pending at Jalandhar to Amritsar. It is on the plea that the first suit was filed at Amritsar by applicants No. 1, 3 and 4. Prayer has been made on the ground that the relief sought in all the three suits and parties thereto are common. It is not in dispute that issues in all three suits are yet to be framed, to enable this court to appreciate the contentions raised by learned counsel for the parties. Even if that is so, the proper remedy under the circumstances may not be transfer and clubbing of the suits, but somewhere else.

For the reasons mentioned above, I do not find any merit in the present application. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

23.4.2015
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