

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Transfer application No. 82 of 2013 (O&M)
Date of decision: 20.4.2015

Anil Mohindru

.. Applicant

v.

Mohan Singh Sachdeva

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Surinder Sharma, Advocate for the applicant.
Mr. Mayank Mathur, Advocate for
Mr. Tushar Sharma, Advocate for the respondent.

...

Rajesh Bindal J.

Prayer in the present application is for transfer of rent petition filed by the applicant against the respondent for eviction from the court at Jalandhar to Kapurthala or any other court of competent jurisdiction.

The applicant averred that the property in dispute was rented to the respondent @ ₹ 250/- per month. The respondent is a leading advocate at Jalandhar and he was in arrears of rent for quite some time. In the year 2009, when the applicant approached different advocates at Jalandhar for filing the ejectment petition, no advocate agreed for the same. The petition was filed in person by the applicant. The proceedings continued. The pleadings were completed. Issues were framed. However, at the stage of recording of evidence, the applicant required assistance of a counsel. In the absence thereof, he was not able to pursue his case effectively. He has named some counsels, who were approached but refused to take up the case of the applicant. He submitted that examination-in-chief of the applicant has been recorded and the case is at the stage of his cross-examination. To enable the applicant to effectively pursue the case, it may be transferred to

any place nearby Jalandhar so that the applicant can have assistance of a counsel to plead his case before the court.

On the other hand, learned counsel for the respondent submitted that the respondent is not practising in District Courts, Jalandhar. He is an advocate practising in labour law before the Labour Court/Industrial Tribunal. The counsels, who have been named in the application, may not have accepted the brief of the applicant for the reason that they had been class-mates of the respondent. There are other advocates available at Jalandhar, who can be engaged by the applicant. He further referred to a judgment of this Court in Gurnam Singh and another v. Amandeep Singh and others, (2005) 140 PLR 595 to plead that merely because a party to the suit is an advocate, the case cannot be transferred to other court.

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

The basic facts that the applicant is a landlord and the respondent, who is an advocate, is a tenant are not in dispute. The case set up by the applicant is that for the purpose of filing eviction petition, he had tried to contact many leading advocates but none of them agreed to accept the brief for the reason that the respondent was a counsel practising at Jalandhar. He had filed the petition in person. The assistance of a counsel was required at the stage of his cross-examination. The prayer is to transfer the proceedings to any court close to Jalandhar.

The claim of the applicant was sought to be refuted by the respondent while referring to the judgment of this court in Gurnam Singh's case (supra). There is no dispute regarding the proposition of law laid down therein, i.e., merely because a party to the litigation is an advocate, the case cannot be transferred from that court to some other court. This court did not lay down that as a general proposition of law. However, each case has to be examined on its own merits. The proceedings in the aforesaid case were at the stage of conclusion when the application for transfer was filed. This was one of the factors considered by this court not to transfer the case. In the case in hand, the proceedings are still at the initial stage and the evidence has just started. The applicant has named five counsels, who refused to

accept his brief. This fact is not disputed by the respondent.

In the aforesaid factual matrix, in my opinion, considering the facts and circumstances of the case, the same deserves to be transferred from Jalandhar to Kapurthala, a nearest place.

The parties through counsels are directed to appear in the court of Civil Judge (Senior Division)/Rent Controller, Kapurthala on 16.5.2015. The Civil Judge (Senior Division)/Rent Controller, Kapurthala may keep the case with himself or entrust the same to any other competent court.

The application stands disposed of.

(Rajesh Bindal)
Judge

20.4.2015
mk