

TA-662-2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

TA-662-2015 (O&M)
Date of decision: 16.9.2015

Maya Devi

...Petitioner

Versus

Prithvi Raj

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.PK Ganga, Advocate for the petitioner

SNEH PRASHAR, J.

CM-19232-CII-2015

Allowed as prayed for.

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The instant petition under Section 24 read with Section 151 of the Code of Civil Procedure has been filed for seeking transfer of Civil Suit No.76-C of 2013 titled as “ Maya Devi vs. Prithvi Raj” from the court of learned additional Civil Judge (Sr.Divn.), Ellenabad, District Sirsa to a court of competent jurisdiction at Fatehabad, Hisar, Panchkula or at District Headquarter Sirsa.

The facts of the case are that petitioner Maya Devi filed a suit for declaration that judgment and decree dated 11.2.2013

passed by learned Additional Civil Judge, Senior Division, Sirsa in civil suit No.109-C of 1.2.2012 titled as “Prithvi Raj vs. Maya Devi” is illegal, unjust and sought a permanent injunctive order to restrain the defendant-respondent from alienating/ transferring the land in question on the basis of the impugned judgment and decree.

The submissions made by learned counsel for the petitioner have been heard.

It is submitted on behalf of the petitioner that the respondent and his associates are involved in criminal cases and they are habitual of grabbing the land of innocent persons. He threatened the petitioner to withdraw her suit or he will implicate her as well as her daughter and her husband in false criminal case. By levelling false and frivolous allegations against her and her daughter and son-in-law, an FIR No.266 dated 28.8.2015, under Sections 323, 341, 506, 34 of the Indian Penal Code was got registered by him at Police Station Ellenabad with a move to pressurise her. Submitting that no advocate at Civil Court, Ellenabad is ready to defend her case after a scene was created by the respondent outside court premiss on which the criminal case was registered, learned counsel prayed that the case be transferred from Civil Court Ellenabad to some other District or District Headquarter at Sirsa.

In the present case, the parties to *lis* are sister and brother. The civil suit had been filed by the petitioner-sister against her brother seeking declaration that the judgment and decree dated 11.2.2013 passed by learned Civil Court, Sirsa in favour of the respondent is null and void. The suit was filed through counsel and has almost reached the fag end being at the stage of defendants-respondents' evidence. There is nothing to indicate that the Advocate representing the petitioner has withdrawn his power of attorney. Mere presumption or possible apprehension is not sufficient for a case to be transferred. As submitted by the petitioner herself the criminal case has been registered on the intervention of the Court.

Transfer of case should not readily be granted for any fancied notion of a litigant. The yardstick is the interest of justice. The applicant should repose confidence in judicial process. The apprehension of the petitioner appears to be baseless and deserves to be rejected.

In the above premises, there being no ground for transfer, the present petition is dismissed.

16.9.2015
gsv

(SNEH PRASHAR)
JUDGE