

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

TA No.815 of 2015.

Date of Decision: 05.11.2015.

M/s Trimurti Construction Developers & Builders and others

....Petitioners.

VERSUS

The State of Haryana and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Manoj Bajaj, Advocate for the petitioners.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by the petitioners for setting aside the order dated 09.10.2015 passed by learned District and Sessions Judge, Rohtak, vide which the application for transfer of Civil Suit No.82 of 24.03.2014 filed by the petitioner was dismissed.

The submissions made by learned counsel representing the petitioners have been considered.

A suit for recovery of Rs.5,36,89,197/- as principal amount and Rs.3,70,48,041/- as interest at the rate of 11.75% per annum upto

12.03.2014 with future interest, had been filed by the respondents which is pending before Additional Civil Judge (Senior Division), Rohtak.

Learned counsel for the petitioners submitted that learned trial Court had been showing undue haste in proceeding with the case which indicates his biased attitude towards the petitioners. A criminal case bearing First Information Report No.338 dated 18.10.2008 had been got registered by the Executive Engineer Provincial Division No.4, PWD Branch, Rohtak (respondent No.3). At one stage, the said criminal case was also pending before the same Court. Petitioners No.2 to 4 had applied for discharge but their prayer was illegally declined and against the order they have already approached this Court. In the said petition, this Court had granted exemption from personal appearance to petitioners No.3 and 4. Despite the order having been brought to the notice of the trial Court, he ordered for presence of the petitioners in person and for submitting of arguments on charge. The petitioners then moved an application before learned District and Sessions Judge, Rohtak for transfer of the case but their application was dismissed vide the impugned order dated 09.10.2015.

Submitting that the criminal case has since been transferred from the Court of learned Civil Judge (Senior Division), Rohtak to the Court of Judicial Magistrate Ist Class, Rohtak and since the orders passed by the trial Court reflect the prejudice attitude of the trial Court against the petitioners, the civil suit for recovery filed by the respondents should also be transferred to some other Court of competent jurisdiction.

From the pleadings of the petitioners they appear to be

aggrieved merely by order declining discharge of petitioners No.3 and 4 passed by learned Additional Civil Judge (Senior Division) while conducting proceedings in the criminal case registered against them. Nothing such in the present case i.e. during the proceedings of civil suit for recovery could be pointed out by learned counsel for the petitioners which could show that learned trial Court was biased against them or was proceeding in haste causing prejudice to their rights. On every date of hearing detailed interim order is being passed by learned trial Court. In case the petitioners are aggrieved by any judicial order passed by learned trial Court, they have a remedy under law against the same but that cannot be a ground for getting the suit transferred from one Court to another. Dismissing the application for transfer filed by the petitioners, the findings of learned District Judge are as under:-

“After hearing the learned counsel for the plaintiffs and going through the file, I am of the view that the apprehension of the plaintiffs is misfounded. Endeavour of the Presiding Officer is only to decide the case expeditiously as huge amount is involved in the suit. In fact, it is a suit for the recovery of rupees more than 9 crore. The Presiding Officer did not commit any illegality while showing his anxiety to decide the suit on priority rather such a conduct is expected from him. It is needless to say that purpose of moving the application is only to linger on the decision of the case. Application is thus dismissed.”

Learned counsel for the petitioners could demonstrate no illegality or perversity in the order of learned District and Sessions Judge. Transfer of a case from one Court to another can go a long way to reflect aspersion on the sanctity and fairness attached to the functioning of the Court and hence such an order cannot be passed in absence of any substantive reason. In my considered opinion, no ground for transfer of the case from the Court of learned Additional Civil Judge (Senior Division), Rohtak is made out and the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

05.11.2015.
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