

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

**CR No.6676 of 2016
Decided on: 05.10.2016**

Rajesh Sharma and another	Versus	Petitioners
Kulwant Kaur		Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Harkesh Manuja, Advocate for the petitioners.

REKHA MITTAL, J.

By invoking Article 227 of the Constitution of India, the present petition lays challenge to order dated 23.09.2016 passed by the District Judge, Chandigarh whereby application filed by the respondent for transfer of civil suit captioned '*Rajesh Sharma and another vs Kulwant Kaur*' from one Court to another Court has been allowed.

Counsel for the petitioners has submitted that the reasons that weighed in the mind of the District Judge for transfer of the case are not legally justified, therefore, the impugned order is liable to be set-aside. In addition, it is submitted that on an earlier occasion, an application was filed by the respondent/petitioner under Section 24 read with Section 151 of the Code of Civil Procedure (in short 'CPC') for transfer of both the cases titled '*Kulwant Kaur vs Rajni Sharma and another*' and '*Rajesh Sharma and another vs Kulwant Kaur*' to the same Court in order to avoid different judgments and for speedy and efficacious disposal of the cases and the application was allowed by the District Judge, Chandigarh vide order dated 07.12.2015 (Annexure P4) with a direction to the trial Court to dispose of the matter expeditiously but cases to be decided independently. It is argued that as the

respondent earlier filed the application for decision of both the cases by the same Court, she is otherwise estopped from seeking transfer of the case on the ground that the trial Court has decided one of the cases and expressed its opinion against the respondent/petitioner. In support of his contention, he has referred to judgment of this Court ***“Tarlochan Singh vs Narinder Singh and others”***, 2015(2) PLR 141.

I have heard counsel for the petitioners and perused the paperback.

The application for transfer (Annexure P6) was allowed by giving two reasons namely the earlier suit pending between the parties was decided by the Court of Ms. Pavleen Singh, Civil Judge (Jr. Division), Chandigarh against the applicant and the applicant has expressed her apprehension that she will not get justice from the said Court. After filing of the instant application, it would not be in the fitness of things to get the matter disposed of from the same Court keeping in view the dictum that justice should not only be done but also appears to have been done. The second reason that has weighed in the mind of the Court that as the respondent has filed an application, it would not be in the fitness of things to get the matter disposed of from the same Court cannot be affirmed as it may create total chaos and confusion because any litigant who does not want decision from a particular Court or is otherwise interested to delay the proceedings can safely file an application for transfer. However, as the earlier Court has already expressed its mind with regard to a similar dispute between the parties and the respondent has expressed her apprehension that there may not be any change in the decision rendered by the Court, no

interference in the discretion exercised by transferring the case from the earlier Court to the present one is warranted in the circumstances.

To be fair to the petitioners, counsel has referred to judgment of this Court in *Tarlochan Singh's case (supra)*. As a matter of fact, decision in one transfer application may not be a precedent in the other case. In the referred case, the application for transfer was dismissed and thus Court refused to intervene.

For the foregoing reasons, the petition is dismissed.

05.10.2016

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No