

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 8050 of 2014
Date of Decision: 5.1.2016**

Kapoor Singh

---Petitioner

versus

Jai Parkash

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Nitin Jain, Advocate
for the petitioner

Mr. Ashwani Bakshi, Advocate
for the respondent

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to the order dated 1.10.2014 passed by the District Judge, Bhiwani whereby the application filed by the respondent for transfer of case captioned “Kapoor Singh vs. Ram Kumar etc.” earlier pending in the Court of Civil Judge (Junior Division), Charkhi Dadri has been allowed and the case has been transferred to the Court of Civil Judge (Senior Division), Bhiwani.

Counsel for the petitioner would contend that the mere fact that the petitioner is a practising Advocate at Charkhi Dadri cannot be a

ground for transfer of the case particularly in the circumstances that it is none of the plea of the respondent that he (petitioner) has interfered in the administration of justice in any manner whatsoever. It is further argued that plea of the respondent that due to petitioner being a party in the civil suit, he is not getting proper assistance from any lawyer practising at Charkhi Dadri is false as the respondent is represented by Sh. B.S.Boora, Advocate, Bhiwani who happens to be one of the relatives of the respondent. The respondent also engaged Sh. N.S.Kataria and Sh. Rathi, Advocates practising at Rohtak, therefore, there was no reason for the District Judge to accept his plea and transfer the case.

Another submission made by counsel is that in the suit titled “Kapoor Singh vs. Ram Kumar etc.” there are other defendants but they were not made a party in the transfer application. A preliminary objection was raised by the petitioner in his reply that in absence of other defendants, the application is not maintainable but the District Judge, Bhiwani did not take note of the said objection. In support of his contentions, he has referred to the judgment of Hon'ble the Supreme Court of India in **Kulwinder Kaur @ Kulwinder Gurcharan Singh vs. Kandi Friends Education Trust and others 2008(1) R.C.R.(Civil) 821** and judgment of this Court in **D.A.V. College, Hoshiarpur Society (Regd.) and another vs. D.M.Sharma and others 2005(1) R.C.R.(Civil) 71.**

Counsel for the respondent, on the contrary, would urge that the petitioner and the respondent are real brothers. As the petitioner is a leading practitioner at Charkhi Dadri and is also a member of Local Bar Association, the respondent is not getting proper legal assistance from any counsel

practising at Charkhi Dadri. He engaged Sh. Daryao Singh, Advocate who appeared on his behalf on two dates i.e. 27.5.2014 and 28.5.2014 but later he withdrew his vakalatnama due to pressure of the petitioner. He engaged Sh. B.S.Boora, Advocate Bhiwani but Mr. Boora Advocate agreed to appear on his behalf for one or two hearings only. It is argued that apprehension of the respondent that he will not get proper legal advice and assistance at Charkhi Dadri, in the circumstances is well found and rightly accepted by the court below. Another submission is that Bhiwani is barely 30 Kms away from Charkhi Dadri and transfer of the case to Charkhi Dadri would not cause any inconvenience to the petitioner as he appears before the appellate Courts at Bhiwani and the appeals against the decisions by the Courts at Charkhi Dadri are heard at Bhiwani. In addition, it is submitted that an earlier suit for recovery titled “Kapoor Singh vs. Ram Kumar” filed by the petitioner and another suit bearing No. 281 of 2012 titled “Kapoor Singh vs. Jai Parkash etc.” have been transferred to Bhiwani and the same were decided by the Courts at Bhiwani. The last submission is that the District Judge being better aware about the ground realities has rightly exercised judicial discretion and transferred the case, in the interest of justice.

I have heard counsel for the parties and perused the records.

It is an admitted position of the case that the petitioner and the respondent are real brothers and they are entangled in various litigations. The petitioner is indisputably a leading practitioner at Charkhi Dadri, in the profession for the past several decades. There is no denial that on earlier two occasions, the suits filed by the petitioner against his brother(s) had

been transferred to the Court at Bhiwani on the same ground.

The respondent has not levelled any allegations against the petitioner that he would be in a position to influence the decision of the case but has expressed his helplessness as he is unable to get proper legal assistance from any Advocate practising at Charkhi Dadri. The District Judge, Bhiwani is certainly in a better position to appreciate apprehension of the respondent that he would not get proper legal assistance in defending the case filed by his brother. There cannot be any quarrel with the observations made in the referred authorities, however, keeping in view the facts and circumstances of the present case, I do not find any error much less illegality in the impugned order as would call for intervention.

In view of what has been discussed hereinabove, finding no merit, the petition is dismissed.

(Rekha Mittal)
Judge

5.1.2016

PARAMJIT