

TA-339-2015

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

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Date of Decision: 29.02.2016

Sat Narayan Bansal

... Petitioner(s)

Versus

Dev Bhushan Gupta and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Sudhir Aggarwal, Advocate,
for the applicant.

None for respondent No.5.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant application has been filed under Section 24 of the Code of Civil Procedure for transfer of Civil Appeal No.662 of 2013 (Annexure P-1), titled as 'Sat Narayan Bansal vs. Dev Bhushan Gupta and others', filed by the petitioner in the Court of learned Additional District Judge, Gurgaon to any other nearby district.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the applicant contends that the applicant has filed Civil Appeal No.662-2013, titled as 'Sat Narayan Bansal vs. Dev Bhushan Gupta and others' before learned District Judge, Gurgaon which is now pending in the Court of Sh. Yashwinder

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Paul Singh, Addl. District Judge, Gurgaon. The Appellate Court is granting short adjournments and the applicant came to know the reason that brother of respondent No.1 i.e. Sh. Jag Bhushan Gupta is posted as Addl. District Judge at Gurgaon, itself. The applicant has an apprehension that his appeal may be dismissed as the same is against the brother of learned Addl. District Judge, Gurgaon. He contends that the appeal (Annexure P-1) may be transferred to any district nearby Gurgaon.

None has appeared on behalf of respondent No.5 to oppose the contentions of learned counsel for the applicant.

The law is well settled with regard to transfer of cases. The Hon'ble Supreme Court in ***Gurcharan Dass Chadha vs. State of Rajasthan*** AIR 1966 SC 1418 has held that a case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. An applicant is not required to demonstrate that justice will be inevitably failed. An applicant is entitled to transfer of a case if he/she shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It has been further held that it is one of the principles of administration of justice that justice should not only be done, but it also should appear to be done. To judge the reasonableness of apprehension, the state of mind of a person who entertains the apprehension is no doubt relevant but that is not at all. The apprehension must not only be

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entertained but must appear to the Court to be reasonable apprehension. Reliance in this regard can also be placed upon the judgment of the Hon'ble Supreme Court in *Satish Jaggi vs. State of Chhattisgarh & Ors.*, (2007) 11 SCC 195.

In the present case, brother of respondent No.1 is posted as Additional District Judge at Gurgaon where the appeal (Annexure P-1) is pending. To ensure that justice is not only done, but also seen to be done and in the peculiar facts of the case, this Court feels that it would be appropriate to transfer the case to some other district. In view of above and in the interest of justice, Civil Appeal No.662 of 2013 (Annexure P-1) is withdrawn and ordered to be transferred to learned District Judge, Faridabad, who may assign the same to the Court of competent jurisdiction there. The learned Addl. District Judge, Gurgaon shall ensure that entire record of the case is sent to learned District Judge, Faridabad. Parties are directed to appear before learned District Judge, Faridabad on 21.03.2016. The learned Addl. District Judge, Gurgaon shall inform the respondents about the next date of hearing in the Court at Faridabad. It is made clear that transfer of appeal shall not be construed as casting any aspersion on learned Additional District Judge, Gurgaon.

Disposed of.

27.02.2016
parveen kumar

(Paramjeet Singh Dhaliwal)
Judge