

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**TA No.839 of 2015 & connected matters
Date of decision:29.3.2016**

Sardul Singh

...Applicant

Versus

Shree Sanatan Dharam Sabha (Regd.) through its authorised representative
...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.S.K.Sharma Budhladawale, Advocate for the applicant(s).
Mr.R.K.Singla, Advocate for the applicant in TA No.931 of 2015
Mr.Binderjit Singh, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 23 identical transfer applications bearing TA Nos. 839, 842, 843, 846, 857, 858, 862, 867, 868, 869, 871, 872, 873, 892, 893, 895, 896, 897, 899, 900, 901, 907 and 931 of 2015 filed by the tenants under Section 24 read with Section 151 of the Code of Civil Procedure, seeking transfer of eviction petitions filed by the respondent-landlord under Section 13 of the East Punjab Rent Restriction Act, 1949, pending consideration before the learned Rent Controller, Bathinda, to any court of competent jurisdiction outside Bathinda, is being decided together vide this common order, as all these transfer applications raise identical issues.

Notice of motion was issued vide order dated 9.2.2016 and the same reads as under:-

“Learned counsel for the applicant(s) after seeking instructions from the applicant(s) states that they have apprehension that they will not get justice as in this case senior advocates practicing at Bathinda are involved and the

applicants are not in a position to engage a competent counsel to defend their cases at Bathinda.

Learned counsel, after seeking instructions, further states that the applicant(s) are ready to bear the expenses of the counsel and the witnesses of the respondent, if the case is transferred to the Court of competent jurisdiction at a place other than District Bathinda.

Notice of motion for 27.02.2016.

The applicant(s) will be at liberty to serve the respondent through dasti process as well as through its counsel in lower Court.

Further proceedings in the trial Court are stayed till further orders.

A photocopy of this order be placed on the files of other connected cases.”

Heard learned counsel for the parties.

Learned counsel for the applicant(s), on instructions from applicant(s), submits that applicants are ready to bear reasonable expenses on account of counsel's fee and the witnesses of the respondent, as undertaken by them before this Court on 9.2.2016.

Faced with this, learned counsel for the respondent, on instructions from the respondent, fairly states that if the applicants-tenants are ready to bear reasonable expenses towards counsel's fee and witnesses of the respondent, respondent would have no objection in transfer of the ejectment petitions to the court of competent jurisdiction outside Bathinda.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the cases noted above, all the

transfer applications deserve to be allowed.

With the consent of learned counsel for the parties, all the eviction petitions filed by the respondent-landlord against the applicants-tenants in these transfer applications which are pending consideration before the learned Rent Controller, Bathinda, are ordered to be transferred to the court of learned Rent Controller, Barnala. As undertaken by the applicants, they shall pay an amount of Rs.22,000/- as counsel's fee in every eviction petition. The applicants-tenants shall also pay the expenses for the witnesses of the respondent, as undertaken by them before this Court on 9.2.2016. Further, applicants shall pay the amount of Rs.22,000/- as counsel's fee to the respondent-land-lord by way of bank draft within a period of 15 days from today, as agreed by the learned counsel for the applicants. So far as the expenses for witnesses of the respondent are concerned, the same would be paid by the applicants-tenants, as per the zimni orders passed by the learned Rent Controller, Barnala, as and when required.

However, it is made clear that if any of the applicant-tenant shall not make this payment of Rs.22,000/- for counsel' fee in his eviction petition to the respondent-landlord, within the above-said stipulated period of 15 days, his transfer application would be deemed to have been dismissed without any further reference to the court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above and coupled with the reasons aforementioned, all these transfer applications are allowed. Accordingly, learned District Judge, Bathinda, is directed to ensure sending the complete record of all the eviction petitions

filed by the respondent-landlord against the applicants-tenants, pending in the court of learned Rent Controller, Bathinda, to the learned District Judge, Barnala, at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Barnala, is also directed to assign all the eviction petitions received by him from the learned District & Sessions Judge, Bathinda, to the court of learned Rent Controller, Barnala, for their early decision, in accordance with law.

However, since these transfer applications have been accepted, because of peculiar fact situation of these cases, it would not be treated as precedent in future.

With the above-said observations made and directions issued, all these transfer applications stand disposed of, however, with no order as to costs.

29.3.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE