

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

TA No.567 of 2014
Date of Decision : 24.5.2016

Dalip Singh

.....Applicant

Vs.

Gurmail Kaur and others

.....Respondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. A.P. Kaushal, Advocate for the applicant.
Mr. Rajan Bansal, Advocate for the respondents.

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

RAMESHWAR SINGH MALIK, J

Applicant seeks transfer of a civil suit filed by the respondent
from Barnala to Bathinda.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this court that the applicant is a retiree and he is staying at Hanumangarh in Rajasthan. The respondents have filed a suit for declaration at Barnala. The applicant who is a senior citizen has raised apprehension at the hands of respondents and their other relatives, which has gone uncontroverted because no reply has been filed on behalf of the respondents. Distance between Hanumangarh and Barnala is more than 100 kms.

In view of the abovesaid undisputed fact situation obtaining in

the present case, this court is of the considered opinion that the instant transfer application deserves to be allowed. It is so said because the applicant is a senior citizen. If he is forced to come from Hanumangarh to Barnala to pursue the litigation imposed upon him by the respondents, it would amount denial of justice to the applicant. Having said that, this court feels no hesitation to conclude that the interest of justice demands transfer of civil suit filed by the respondents from Barnala to Bathinda.

The judgement relied upon by learned counsel for the respondents in **Poonam Vs. Virender**, 2006(2) RCR (Civil) 356 has been found to be of no help to the respondents, it being distinguishable on facts. The above said view taken by this court also finds support from the following judgements of the Hon'ble Supreme Court, as well as different High Courts, including this court :-

1. Mrs. Maneka Sanjay Gandhi and another Vs. Miss Rani Jethmalani, AIR 1979 (SC) 468.
2. Dr. Subramaniam Swamy Vs. Ramakrishna Hegde, 1990 (1) SCC 4.
3. Neelam Kanwar Vs. Devinder Singh Kanwar, 2000 (10) SCC 589.
4. Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 (SC) 396.
5. Mangla Patil Kale Vs. Sanjeev Kumar Kale, 2003 (10) SCC 280.
6. Fatema Vs. Jafri Syed Husain @ Syed Parvez Jafferi, AIR 2009 (SC) 1773.

7. Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani, AIR 2009 (SC) 1374.
8. Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust and others, AIR 2008 SC 1333.
9. Nisha Vs. Dharmenda Pratap Singh Rathore, 2015 (3) All. LJ 168.
10. M.V. Rekha Vs. Sathya, 2011 (2) HLR 34.
11. Sneha Vs. Vinayak, 2013 ILR (Karnataka) 165.
12. Rimpal Vs. Balinder Kumar, 2010 (7) RCR (Civil) 286.
13. Anju Vs. Sanjay, 2011 (6) RCR (Civil) 112.
14. Komal Devi @ Komal Kumari @ Komal Rani Vs. Harbhajan Singh, 2012 (8) RCR (Civil) 84.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that instant transfer application deserves to be accepted and the same is hereby allowed.

Consequently, learned District Judge Barnala is directed to send the complete record of the civil suit filed by the respondents titled as Gurmail Kaur and others Vs. Dalip Singh and another, to the learned District Judge, Bathinda at an early date and in any case within a period of one month from the date of receipt of certified copy of this order.

Learned District Judge, Bathinda is also directed to assign the above said civil suit to the learned court of competent jurisdiction for its

early decision, in accordance with law.

With the abovesaid observations made and directions issued,
instant transfer application stands disposed of, however, with no order as to
costs.

24.5.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE