

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

**Civil Revision No. 1565 of 2017 (O&M)
Date of Decision: 09.03.2017**

Sher Singh & Ors.

... Petitioners

vs.

Nagar Council, Sunam and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Rajbir Singh, Advocate
for the petitioners.**

ANITA CHAUDHRY, J.

The petitioners are aggrieved of the order dated 22.02.2017 passed by the District Judge, Sangrur vide which their application seeking transfer of the appeal pending before Addl. District Judge, has been dismissed.

The petitioners are the plaintiffs. They had filed a suit seeking injunction claiming a right over land measuring 46 kanals 16 marlas. The suit was dismissed by the trial Court on 28.08.2014. An appeal was filed by the plaintiff, which was assigned to the Addl. District Judge, Sangrur. During pendency whereof, the plaintiffs filed an application under Order 6 Rule 17 CPC seeking amendment of the plaint. The application was rejected on 18.11.2016. Thereafter, an application was moved before the District Judge, seeking transfer of the case which has been dismissed by dint of the order impugned in this petition.

I have heard learned counsel for the petitioners and have

gone through the paper-book.

It is relevant to mention here that the Civil Revision filed by the plaintiffs against the order rejecting their prayer for amendment of plaint has been dismissed by this Court.

The submission of the petitioner is that the Court had given certain findings which adversely affect the merits of the case and in a way the Presiding Officer has given his mind. It has further been urged that the respondents were influential persons and are claiming that they would get a decision in their favour and the plaintiffs have apprehensions that they will not get justice from the Court.

The apprehension is misconceived and not based on any proof. It is settled that a transfer should not be granted on a fancied notion of a litigant. A party should not ordinarily be allowed to have the Forum of his/ her own choice. A transfer applicant cannot be allowed to make unfounded charges. Unless and until a sufficiently cogent ground is disclosed, transfer should not be allowed as a matter of course. Where the ground for transfer is not substantiated, the application for transfer should not be allowed. Introducing fanciful and imaginary allegations as grounds for transfer and harbouring apprehensions have always to be deprecated. Mere suspicion by the party that he will not get justice would not justify transfer. There must be reasonable apprehension to that effect, which is lacking in this case. It cannot be forgotten that a judicial order made by a judge legitimately cannot be made a foundation for transfer of the case. Mere

presumption of possible apprehension should not and ought not be the basis of transfer of any case from one Court to another. The observations of Presiding Officer of the Court while hearing a case does not mean that he has made up his mind in a particular manner so as to justify the allegation of bias. While disposing of an application the Presiding Officer would make a statement, it should not be misunderstood as an expression of decision. The order passed by the Additional District Judge was assailed in the High Court and the revision was dismissed.

In view of the above, no fault can be found with the approach adopted by the District Judge in dismissing the transfer application.

Petition is dismissed.

09.03.2017

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No