

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5613 of 2017

Date of Decision: 23.08.2017

**Bharat Inder Singh (since deceased) through his LR Amrinder Singh Brar
.....Petitioner**

Vs.

Maharani Deepinder Kaur and othersRespondents

CR No.5624 of 2017

**Bharat Inder Singh (since deceased) through his LR Amrinder Singh Brar
.....Petitioner**

Vs.

Maharawal Khewaji Trust and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vivek Bhandari, Advocate, for the petitioner.

Mr.B.S.Sewak, Advocate, for the caveator/respondent No.6.

RITU BAHRI, J. (ORAL)

The prayer in the instant revision filed under Article 227 of the Constitution of India praying is for challenging the order dated 25.07.2017 (Annexure P-5) passed by the learned District Judge, Chandigarh, dismissing the application under Section 24 CPC seeking transfer of the appeal from the Court of Sh.Jasbir Singh Sidhu, Additional District Judge, Chandigarh to some other Court.

The brief facts of the case are that originally two civil suits i.e. civil suit No.473 of 23.07.2010 titled Raj Kumari Amrit Kaur Vs. Maharani Deepinder Kaur and Ors and Civil suit No.4193 of 21.08.2010 titled Kanwar Manjit Inder Singh through his LR Vs. Maharani Deepinder Kaur and ors were decided by the Court of Sh.Rajnish Kumar Sharma, the then Additional Civil Judge (Sr.Divn.), Chandigarh by single judgment dated 25.07.2013 against which three appeals were

appeal No.206 of 2013 and at one point of time all the three said appeals were pending in the Court of Sh.Jasbir Singh Sidhu, Additional District Judge, Chandigarh. However, he referred all the said three appeals to this Court with the similar request for transfer of the same to some other Court vide order dated 25.07.2016 but learned District Judge, Chandigarh has rejected his request vide order dated 17.08.2016. Thereafter, three transfer applications i.e. TA No.107 of 2017, TA No.108 of 2016 and TA No.109 of 2016, in appeals after issuing the notice, the same have been again dismissed vide impugned order dated 25.07.2017 (Annexure P-5).

A similar question for consideration before Hon'ble the Supreme Court in a case of Narinder Singh Arora Vs. State (Government of NCT of Delhi) and others, wherein, it was held that impugned judgment passed by the Judge, subsequent to his recusal at the trial stage for personal reasons, is against the principle of natural justice and fair trial. Hence, the matter was remanded back to the High Court for fresh disposal of the revision petition filed by the appellant in accordance with law by sending it to some other Bench. Similarly, in a judgment of Supreme Court in a case of S.K.Warikoo Vs. State of J & K and Others (1998) 9 SCC 677, wherein, one of the members of the present Bench of the Apex Court had dealt with the matter in the High Court even though at a preliminary stage of admission of LPA withheld from the Bench of the Apex Court when SLP was argued and it would be appropriate in the matter to issue notice to the counsel who had appeared at the stage of notice of SLP and the matter was to be put up before the some other Bench. The ratio of the abovesaid judgments are directly applicable in the present case.

In view of the above, a direction is given to the District Judge, Chandigarh, to list the abovesaid three appeals and transfer applications before Court of some other Judicial Officers or some other Additional District Judge

within a period of two weeks from the date of receipt of the copy of this order.

Since, the transfer applications have been dismissed from almost an year, an attempt be made for exclusive conclusion of the trial.

(RITU BAHRI)
JUDGE

23.08.2017
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>