

**TA No. 267 of 2016 (O&M)
and other connected cases**

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

**TA No. 267 of 2016 (O&M) and
other connected cases
Date of decision: 23.1.2017**

Tek Chand Sharma

...Applicant

Versus

Shobharam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Applicant in person.

Mr. Ashok Kaushik, Advocate
for the respondents.

Mr. Ram Tilak Redhu, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

These seven identical transfer applications, bearing TA No. 267 to 269, 278, 308, 459 and 468 of 2016 are being decided together, as these are between the same parties and raise similar issues.

Applicant, by way of these seven transfer applications under Section 24 of the Code of Civil Procedure (for short 'CPC'), seeks transfer of the following civil suits pending between the same parties, from Palwal to any other district of Haryana, except Districts Palwal and Faridabad.

Sr.	Case No.	Title
1.	CS No. 792/2014	Tekchand Sharma @ Tikaram VS. Shobharam and another
2.	CS No. 226/2013	Tekchand Sharma @ Tikaram VS. Shobharam and another
3.	CS No. 1861/2011	Tekchand Sharma @ Tikaram VS. Shyam Dai and another
4.	CS No. 794/2014	Tekchand Sharma @ Tikaram VS. Suresh and another
5.	Taksim Dava No.3/2013	Tekchand Sharma @ Tikaram VS. Suresh and another
6.	CS No. 251/2015	Raghunandan and another Vs. Tekchand Sharma @ Tikaram and another
7.	CA No. 450/2015	Tekchand Sharma @ Tikaram VS. VS. Rambabu@Baburam and another

Notice of motion was issued in all these seven cases.

Heard learned counsel for the parties.

Applicant, who is appearing in person, submits that litigation is amongst real brothers. Since he had been staying in Delhi, his brothers have tried to grab his share in the ancestral property. That is why, he has to file different civil suits. Applicant further submits that since he is all alone and all the respondents are having an eye on his share, he is facing genuine apprehension at the hands of the respondents. He also submits that despite having been granted police protection, he was attacked in District Palwal. Thereafter, the Commissioner of Police, Faridabad, provided him police protection in compliance of the order passed by this Court. He concluded by submitting that since he is unable to pursue the litigation at District Palwal, the same may be transferred to any other place in Haryana, except District Palwal and Faridabad, by allowing all these transfer applications.

On the other hand, learned counsel for respondents submits that

applicant has put up a concocted and made up story in all these transfer applications. Neither the respondents have tried to grab the share of the applicant in the ancestral property, nor there is any apprehension to the applicant from the respondents. He prays for dismissal of all these transfer applications.

Having heard learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that it is just and expedient to transfer the abovesaid litigations pending between the parties from Palwal to Gurugram, so as to secure the ends of justice.

It is the settled proposition of law that every party to the litigation must be granted due opportunity to put up its best case before the court. Nobody should be forced to go home with the grievance that he was not granted due opportunity to put up his case before learned court of competent jurisdiction. Under the peculiar facts and circumstances of the cases in hand, it would be in the interest of justice to transfer the abovesaid litigations pending between the parties from Palwal to Gurugram, so as to grant equal opportunity to every party to put up its best case and that too, without any hardship.

The view taken by this Court also finds support from the following judgments 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 Jaffer, 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.*

The relevant observations made by the Hon'ble Supreme Court in **Dr. Subramaniam Swamy's** case (supra), which can be gainfully followed in the present case, read as under: -

“The question of expediency would depend on the facts and circumstances of each case but the paramount consideration for the exercise of power must be to meet the ends of justice. It is true that if more than one court has jurisdiction under the Code to try the suit, the plaintiff as dominus litis has a right to choose the Court and the defendant cannot demand that the suit be tried in any particular court convenient to him. The mere convenience of

the parties or any one of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in denial of justice. Cases are not unknown where a party seeking justice chooses a forum most inconvenient to the adversary with a view to depriving that party of a fair trial. The Parliament has, therefore, invested this Court with the discretion to transfer the case from one Court to another if that is considered expedient to meet the ends of justice. Words of wide amplitude- for the ends of justice- have been advisedly used to leave the matter to the discretion of the apex court as it is not possible to conceive of all situations requiring or justifying the exercise of power. But the paramount consideration must be to see that justice according to law is done; if for achieving that objective the transfer of the case is imperative, there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff. The petitioner's plea for the transfer of the case must be tested on this touchstone.

(emphasis supplied)”

Reverting to the facts of the case in hand and respectfully following the law laid down by the Hon'ble Supreme Court as well as different High Courts, including this Court, it is unhesitatingly held that applicant is entitled for getting the abovesaid litigations transferred from Palwal to Gurugram, so as to enable him to pursue the litigation without facing any undue hardship or harassment at the hands of the respondents. It is the settled principle of law that justice is not only to be done but it should also appear to have been done. If the applicant is forced to go to Palwal to pursue the litigation, it would amount to denial of justice to him. Thus, striking a balance between the parties with a view to do complete and substantial justice and proceeding on a holistic view of the matter, this Court is of the considered view that it would be just and expedient to transfer the abovesaid litigations from Palwal to Gurugram.

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 all these seven transfer applications deserve to be accepted and the same are hereby allowed.

Accordingly, the learned District Judge, Palwal, is directed to send complete record of the abovesaid cases, mentioned in all these transfer applications, to the learned District Judge, Gurugram, at an early date but in any case within a period of one month from the date of receipt of certified copy of this order.

The learned District Judge, Gurugram, is also directed to assign all these seven cases to the learned court of competent jurisdiction, for an early decision, in accordance with law.

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

23.1.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No