

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

**TA No.291 of 2016
Date of decision:28.2.2017**

Vir Pal Kaur

...Applicant

Versus

Tarlochan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Sharad Aggarwal Advocate for the applicant.
Mr.Vaibhav Sehgal, Advocate for respondent No.1.
Mr.M.S.Saini, Advocate for proforma respondents No. 2 to 5.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant, by way of instant transfer application under Section 24 read with Section 151 of the Code of Civil Procedure (for short 'CPC'), seeks transfer of a civil suit for recovery of compensation/damages on account of harassment, discomfort, cruelty, mental agony and defamation committed by the respondent-applicant herein on the grounds taken in the civil suit titled as 'Tarlochan Singh Vs. Vir Pal Kaur' (Annexure P-1) from Ludhiana to Barnala.

Notice of motion was issued.

Heard learned counsel for the parties.

After hearing learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that the present applicant has not been found to be a *bona fide* litigant, so far as instant transfer application is concerned. Under identical

circumstances, another transfer application bearing TA No.48 of 2017 filed by this very applicant came to be dismissed by this Court vide order dated 15.2.2017. It is not one but numerous litigations are pending between the parties at Ludhiana, It seems that the parties are fond of litigation.

Be that as it may, so far as the instant transfer application is concerned, no ground for interference has been made out for transferring the suit filed by the respondent from Ludhiana to Barnala. Exactly identical grounds were taken by the applicant in her earlier transfer application No.48 of 2017 for transfer of another case between these very parties from Ludhiana to Barnala. However, the grounds taken by the applicant were not found sufficient, because she was found contesting the litigation at Ludhiana for the last about 4½ years. While dismissing the above-said TA No.48 of 2017 vide order dated 18.2.2017, this Court observed as under:-

“No untoward incident or complaint, at the instance of the respondent, has been brought to the notice of this Court, which may make out a ground for transfer of the execution application of the applicants, from Ludhiana to Barnala. Whatever complaints were made by the respondent against the applicants and particularly against applicant No.1, were during the pendency of the abovesaid earlier litigation or immediately after decision thereof.

Further, learned counsel for the applicant could not point out any apprehension which may be made the basis for transfer of the execution application from Ludhiana to Barnala. Any litigation cannot be ordered to be transferred at the instance of a party to the litigation just on the asking, until and unless there is sufficient cause shown for transfer of said litigation. Transfer of any particular litigation from one court to another without there being any sound reasons for it, would

send a wrong message and it will not at all be in the interest of justice.

So far as facts of the present case are concerned, as noticed hereinabove, applicants kept on contesting the litigation for about 4 ½ years at Ludhiana. In this view of the matter, it is unhesitatingly held that applicants have failed to make out a case for transfer of their execution application from Ludhiana to Barnala.”

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 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.

The relevant observations made by the Hon'ble Supreme Court in **Dr. Subramaniam Swamy** (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)”

No new ground has been brought to the notice of this Court for transferring the civil suit filed by the respondent from Ludhiana to Barnala.

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 the instant transfer application has not been found to be a fit case for transferring the above-said civil suit from Ludhiana to Barnala. Present transfer application is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the instant transfer application stands dismissed, however, with no order as to costs.

28.2.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

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