

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-803-2016 (O&M)
Date of decision: 24.04.2017

Vijay Kumar

... Applicant

Vs.

Sumitra Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sandeep Gahlawat, Advocate
for the applicant.

RAMESHWAR SINGH MALIK, J. (ORAL)

CM-8635-CII-2017

Applicant seeks permission to place on record the additional documents in the form of Annexures P-11 to P-20 and also seeks exemption from filing certified/true typed copies thereof.

After hearing the learned counsel for the applicant, instant application is allowed. Exemption sought is granted. Documents are permitted to be placed on record.

CM stands disposed of.

TA-803-2016

Applicant, by way of instant transfer application under Section 24 of the Code of Civil Procedure (for short 'CPC'), seeks transfer of two civil appeals being Civil Appeal No.75 of 2015 titled as Sumitra Devi and others Vs. Vijay Kumar and Civil Appeal No.583 of 2015 titled as Sumitra Devi and

others Vs. Vijay Kumar from Jalandhar to other districts.

Heard learned counsel for the applicant.

It is a matter of record and not in dispute that applicant was the plaintiff. Suits were tried by the learned Court of competent jurisdiction at Jalandhar between these very parties. After decision of the suits, during pendency of abovesaid two first appeals, instant transfer application has been moved before this Court.

The only contention raised by learned counsel for the applicant is that since the respondents are moving repeated applications before the learned first appellate Court, thereby causing unwarranted delay in disposal of the abovesaid two appeals, it has necessitated filing the present transfer application.

After hearing the learned counsel for the applicant and going through the record of the case, instant one has not been found to be a fit case for transfer of the abovesaid two appeals. Moving some applications by the respondents in the appeals alone would not be a ground for transfer of the appeal from one district to another district.

The view that has been taken by this Court also finds support from a judgment of the Hon'ble Supreme Court in **Dr. Subramaniam Swamy Vs. Ramakrishna Hegde, 1990 (1) SCC 4**. 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)”

No other argument was raised.

Keeping in view the abovesaid peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court

is of the considered view that present one is not a fit case for transfer of the abovesaid two appeals. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present transfer application stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

24.04.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No