

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.118 of 2017

Date of decision: 05.05.2017

Mohd. Salim

... Applicant

Vs.

Abdul Majeed

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Jai Bhagwan, Advocate
for the applicant.

Mr. A.K. Garg, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant, by way of instant transfer application under Section 24 of the Code of Civil Procedure (for short 'CPC'), seeks transfer of the rent petition titled as Abdul Majid Vs. Mohd. Salim from Malerkotla, District Sangrur to any other district outside District Sangrur.

Notice of motion was issued and in the meantime, further proceedings before the learned Court at Malerkotla were stayed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that son of the respondent is a practicing Advocate in the Courts at Malerkotla. The bonafide apprehension expressed by the applicant is that local Advocates at Malerkotla are not ready to accept his brief. He has to engage the counsel repeatedly,

which is causing unavoidable harassment to him, besides a constant cause of worry that he may not get justice under these circumstances.

In view of the abovesaid undisputed facts and circumstances of the case, instant one has been found to be a fit case for transfer of the abovesaid rent petition from Malerkotla, District Sangrur to Ludhiana, which is adjoining district. It is so said because all the abovesaid undisputed facts clearly go in favour of the applicant and against the respondent.

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)”

Reverting to the facts of the case in hand and respectfully following the law laid down by the Hon'ble Supreme Court in **Dr. Subramaniam Swamy's** case (supra), it is unhesitatingly held that applicant is entitled for getting the abovesaid rent petition transferred from Malerkotla, District Sangrur to Ludhiana. It is the settled principle of law that justice is not only to be done but it should also appear to have been done. Thus, to strike 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 rent petition from Malerkotla, District Sangrur to Ludhiana.

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 instant transfer application deserves to be accepted and the same is hereby allowed. Rent petition titled as Abdul Majid Vs. Mohd. Salim is ordered to be transferred from Malerkotla, District Sangrur to Ludhiana.

Accordingly, the learned District Judge, Sangrur is directed to send complete record of the abovesaid rent petition to the learned District Judge, Ludhiana 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, Ludhiana is also directed to assign the abovesaid rent petition to the learned Court of competent jurisdiction, for its early decision, in accordance with law.

With the abovesaid observations made and directions issued, present transfer application stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

05.05.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No