

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

TA No.227 of 2017

Date of decision: 02.05.2017

M/s Omaxe Housing and Development Limited

... Applicant

Vs.

Rajbir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vijay, Advocate for
Mr. Keshav Partap Singh, Advocate
for the applicant.

Mr. Manoj Pundir, Advocate for
Mr. Divya Pratap Shishodia, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant, by way of instant transfer application under Section 24 read with Sections 23 and 151 of the Code of Civil Procedure, seeks transfer of Civil Suit No.3820 of 2013 titled as Rajbir Singh Vs. State of Haryana and others from Panchkula to Sonapat, as the connected matter between the same parties is already pending at Sonapat.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that the connected matter between the same parties, at the instance of applicant, was already pending at Sonapat. In this view of the matter, it would be in the interest of justice as well as in the interest of both the parties that both the cases between the same

parties are tried and decided together by the same Court of competent jurisdiction, so as to avoid contradictory orders and also to avoid multiplicity of litigation. Further, since the contesting respondent No.1 is resident of Sonapat itself, no prejudice is likely to be caused to him, by transferring the abovesaid civil suit from Panchkula to Sonapat.

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 civil suit transferred from Panchkula to Sonapat, so as to avoid unwarranted harassment to both the parties. 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 civil suit from Panchkula to Sonapat.

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. Civil Suit No.3820 of 2013 titled as Rajbir Singh Vs. State of Haryana and others is ordered to be transferred from Panchkula to Sonapat.

Accordingly, the learned District Judge, Panchkula is directed to send complete record of the abovesaid civil suit to the learned District Judge, Sonapat 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, Sonapat is also directed to assign the abovesaid civil suit to the same learned Court of competent jurisdiction who is already seized of the matter, for an 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

02.05.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No