

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

**TA No.245 of 2017 (O&M)
Date of decision:6.4.2017**

Navdeep Malhotra and another

...Applicants

Versus

Sanjay Malhotra

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.S.N.Pillania, Advocate for the applicants.
Mr.Parveen K. Kataria, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicants, by way of instant transfer application under Section 24 of the Code of Civil Procedure (for short 'CPC'), seek transfer of Civil Suit No.2503/2016 titled as Sanjay Malhotra Vs. Nirmal Malhotra and Navdeep Malhotra, from the court of learned Civil Judge (Sr.Division), Amritsar to any other court of competent jurisdiction in any other District of Punjab or Chandigarh.

Notice of motion was issued.

Reply filed on behalf of the respondent in the Court today is taken on record and copy thereof has been supplied to counsel opposite.

After hearing learned counsel for the parties and going through the record of the case, present transfer application has been found to be a fit case for transfer of the above-said civil suit from Amritsar to Jalandhar as learned counsel for both the parties agreed for Jalandhar.

In fact, in the peculiar facts and circumstances of the case, interest of justice demands the transfer of the above-said civil suit from Amritsar to Jalandhar.

The view taken by this Court also finds support from the 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), the above-said civil suit deserves to be transferred from Amritsar to Jalandhar. 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 above-said civil suit from Amritsar to Jalandhar.

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.2503/2016 titled as Sanjay Malhotra Vs. Nirmal Malhotra and Navdeep Malhotra is ordered to be transferred from Amritsar to Jalandhar.

Accordingly, the learned District Judge, Amritsar, is directed to send complete record of the above-said Civil Suit to the learned District Judge, Jalandhar, 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, Jalandhar, is also directed either to

decide the case himself or assign it to the learned court of competent jurisdiction, for an early decision, in accordance with law.

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

6.4.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

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