

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.304 of 2017

Date of decision: 20.04.2017

Gurbachan Singh

... Applicant

Vs.

Ved Parkash Singh Khurmi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Ahluwalia, Advocate
for the applicant.

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 his own first appeal titled Gurbachan Singh Vs. Ved Parkash Singh Khurmi Advocate and another from Bathinda to some other districts of State of Punjab.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that the applicant contested the civil suit at Bathinda itself. He was being represented by one of the learned member of the bar. The ground made out at this stage of first appeal that no member of the bar is ready to accept his brief, does not appeal to reason.

During the course of hearing, learned counsel for the applicant fairly conceded that the applicant has changed his counsel. However, that is the choice of the applicant but the fact remains that he was being represented

before the learned trial Court and appeal has been filed on behalf of the applicant before the learned first appellate Court by another counsel. Having said that, this Court feels no hesitation to conclude that present one has not been found to be a fit case for transferring the appeal filed by the applicant from Bathinda to any other districts of State of Punjab.

The view 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.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present transfer application is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for transfer of the appeal has been made out.

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

[RAMESHWAR SINGH MALIK]
JUDGE

20.04.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No