

TA No. 397 of 2017

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

**TA No. 397 of 2017
Date of decision: 10.5.2017**

Rajinder Singh

...Applicant

Versus

Karnail Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Arjun Veer Sharma, Advocate
for the applicant.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant, by way of instant transfer application under Section 24 read with Section 151 of the Code of Civil Procedure (for short 'CPC'), seeks transfer of civil suit for declaration and permanent injunction titled as 'Angrej Kaur and others Vs. Karnail Singh and others', from Ludhiana to Tarn Taran.

Heard learned counsel for the applicant.

It is a matter of record that civil suit which is being sought to be transferred from Ludhiana to Tarn Taran has been filed by the applicant himself. Learned counsel for the applicant submits that issues have already been framed in the present suit. The only ground for seeking transfer of the civil suit from Ludhiana to Tarn Taran is that another civil suit titled as 'Karnail Singh Vs. Balwinder Singh and others', filed by respondent No.1 is

TA No. 397 of 2017

pending before the learned court of competent jurisdiction at Tarn Taran.

Learned counsel for the applicant has also pointed out that in the civil suit at Tarn Taran, some of the PWs have already been examined. Thus, both these suits are going on before the learned trial courts at different stages. In this view of the matter, clubbing of both these civil suits will not be possible at this belated stage. Further, it is the applicant himself who is responsible for this delay and that too, without any justified reasons. Having said that, this Court is of the considered opinion that instant one is not a fit case for ordering transfer of the civil suit filed by the applicant from Ludhiana to Tarn Taran.

The view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court, as well as different High Courts, including this Court: -

- 1. Mrs. Maneka Sanjay Gandhi and another Vs. Miss Rani Jethmalani, AIR 1979 (SC) 468.***
- 2. Dr. Subramaniam Swamy Vs. Ramakrishna Hegde, 1990 (1) SCC 4.***
- 3. Savitri Vs. Hari Chand, AIR 1999 SC 55***
- 4. Neelam Kanwar Vs. Devinder Singh Kanwar, 2000 (10) SCC 589.***
- 5. Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 (SC) 396.***
- 6. Rachna Kanodia Vs. Anuk Kanodia, 2002 (1) MLJ 86***
- 7. Archna Singh Vs. Alok Partap Singh, 2002 (2) MLJ 568***
- 8. Mangla Patil Kale Vs. Sanjeev Kumar Kale, 2003 (10) SCC 280.***
- 9. Fatema Vs. Jafri Syed Husain @ Syed Parvez Jafferi, AIR 2009 (SC) 1773.***

TA No. 397 of 2017

10. *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani, AIR 2009 (SC) 1374.*

11. *Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust and others, AIR 2008 SC 1333.*

12. *Nisha Vs. Dharmenda Pratap Singh Rathore, 2015 (3) All. LJ 168.*

13. *M.V. Rekha Vs. Sathya, 2011 (2) HLR 34.*

14. *Sneha Vs. Vinayak, 2013 ILR (Karnataka) 165.*

15. *Rimpal Vs. Balinder Kumar, 2010 (7) RCR (Civil) 286.*

16. *Anju Vs. Sanjay, 2011 (6) RCR (Civil) 112.*

17. *Komal Devi @ Komal Kumari @ Komal Rani Vs. Harbhajan Singh, 2012 (8) RCR (Civil) 84.*

The relevant observations made by the Hon'ble Supreme Court in **Dr. Subramaniam Swamy** (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

TA No. 397 of 2017

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 misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

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

10.5.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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