

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.83 of 2017

Date of decision: 16.03.2017

B.C. Sharma and others

... Applicants

Vs.

Ashok Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.D. Sharma, Sr. Advocate with
Mr. Ved Priya Malik, Advocate
for the applicants.

Mr. Parvez Chugh, Advocate
for respondents No.1 to 4, 9, 10 & 11.

Mr. Atul Goyal, Advocate
for respondents No.5 to 8 & 12 to 14.

Mrs. Kulwant Kaur Kahlon, Advocate
for respondent No.15.

Mr. K.R. Sharma, Advocate
for respondents No.16 to 22, 26, 28 to 32.

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicants, by way of present transfer application filed under Section 24 read with Section 151 of the Code of Civil Procedure (for short 'CPC'), seek transfer of as many as 09 civil suits pending in different Courts in the State of Punjab to one place and preferably at Jalandhar so that all the cases are consolidated and decided together by the same learned Court of competent jurisdiction to avoid contradictory orders and also inconvenience of the parties.

Notice of motion was issued.

Reply filed on behalf of respondents No.1 to 4, 9, 10 and 11 in the Court today, is taken on record and copy thereof has been supplied to learned senior counsel for the applicants.

Heard learned counsel for the parties.

It has gone undisputed before this Court that different civil suits, at least nine in number, are pending between the parties in different Courts at different stations in the State of Punjab. Two civil suits are pending at Jalandhar. Under these undisputed facts and circumstances of the case, this Court is of the considered opinion that instant transfer application deserves to be accepted, so as to avoid contradictory orders from different Courts and also to avoid hardship to both the parties to the litigation.

Transferring the civil suits from different Courts to one station at Jalandhar will facilitate both the parties to pursue their litigation conveniently and it shall also avoid passing of different or contradictory orders by different Courts. So far as consolidation of all the suits is concerned, the parties would be at liberty to move appropriate application before the learned Court of competent jurisdiction at Jalandhar and once such an application is moved, the learned trial Court shall pass appropriate order thereon.

In view of the abovesaid undisputed fact situation of the case, this Court feels no hesitation to conclude that it is just and expedient to transfer all the abovesaid nine suits pending in the different Courts in the State of Punjab to Jalandhar. It is so said because all the abovesaid undisputed facts clearly go in favour of the applicants and against the respondents.

The abovesaid 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 its judgment 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 instant transfer application deserves to be accepted and the same is

hereby allowed. All the abovesaid nine civil suits pending in the different Courts in the State of Punjab i.e. Fazilka, Ferozepur, Jaitu (District Faridkot), Gurdaspur, Kapurthala, Guruhar Sahai and Ludhiana are ordered to be transferred to Jalandhar.

Accordingly, the learned District Judges, Fazilka, Ferozepur, Faridkot, Gurdaspur, Kapurthala and Ludhiana are directed to send complete record of the abovesaid nine civil suits 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 to assign the abovesaid nine civil suits and two other civil suits, which are stated to be pending at Jalandhar, to one learned Court of competent jurisdiction, for early decision thereof, 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

16.03.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No