

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4406 of 2018

Date of Decision: 25.02.2019

Amit Kapoor

...Petitioner

versus

Ajay Kumar @ Ajay Trehan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. K. S. Chawla, Advocate,
for the petitioner.

Mr. Harminder Singh, Advocate,
for the respondents.

Amol Rattan Singh, J.

By this petition, the petitioner has challenged the order of the learned District Judge, S.A.S.Nagar Mohali, dated 10.05.2018 (copy Annexure P-1), by which the petitioners' application for transferring two civil suits in which he is a party, to a different court within Mohali, has been dismissed.

Civil Suit no.1187/2013 is titled as Ajay Kumar v. Amit Kapoor and others and Civil Suit no.1430/2013 is titled as Amit Kapoor v. Ajay Trehan, the petitioner herein being Amit Kapoor. Thus, one suit has been filed by the 1st respondent herein, i.e. Ajay Kumar @ Ajay Trehan against the petitioner and others, and one civil suit has been filed by the petitioner against the 1st respondent herein.

2. Vide his application for transfer before the learned District Judge (copy Annexure P-2), filed invoking jurisdiction under Section 24 read with Section 151 of the Code of Civil Procedure, the petitioner had alleged that the

learned Civil Judge seized of the two suits, was being “unduly harsh, biased, unfair and even insulting”, thereby causing mental trauma to the petitioner, with “hard pressing treatment” meted out by her.

It is further contended that the petitioner is a heart patient who has a pace marker inserted in his body and that due to no fault of his, he was being subjected to continuous and extreme mental stress by the learned Civil Judge, she allegedly also having discriminated against him, against all norms of equity and justice.

3. Specific allegations have also been made by the petitioner that despite three witnesses having been repeatedly present before that court for the petitioner (on behalf of the petitioner), the trial court had been “generously granting” long adjournments on frivolous grounds on the request of counsel for the opposite party and further, with the Civil Judge having been on leave on 06.10.2017, i.e. one of the dates of hearing of the case before her, she took up the file immediately thereafter on 07.10.2017 and ordered that a last opportunity be granted to the petitioner for leading his evidence.

4. Still further, the petitioner had alleged before the learned District Judge that upon an application for filing a supplementary/additional affidavit by way of examination-in-chief of the petitioners' witness, that application was dismissed, allegedly in a hurry without hearing oral arguments, and a self-contradictory order dated 16.02.2018 was passed by that court (copy Annexure P-13 with the present petition), which order, as per the petitioner, was set aside by this court, on a revision filed.

(The contradiction in the said order is stated to be in the fact that after dismissal of the application for additional evidence by way of an

additional affidavit of witness Punit Sekhri (DW5), one Surinder Kumar was cross-examined, with his cross-examination deferred on the request of the opposite party (i.e. Ajay Kumar) for which purpose another date was granted, as also for examining the remaining DWs, with a last opportunity for concluding the evidence from the present petitioners' side).

5. Allegations were also made in the application before the District Judge that the Civil Judge had made a factually wrong and incorrect observation in an order dated February 20, 2017, dismissing an application for consolidation of the two civil suits; and further more, an application filed by the petitioners' counsel seeking an adjournment on the ground that a certified copy of the order of this court (in the revision petition) had not been received, was also wrongly dismissed, with the petitioners' counsel also having sought an adjournment on 26.03.2018 on the ground that the petitioner was to appear before a Commission of Inquiry presided over by a former Acting Chief Justice of this court, despite which, (it was the petitioners' allegation), that the trial court “unduly compelled for the petitioner's personal presence and then having unduly, harshly and insultingly compelled the petitioner- defendant to furnish his affidavit (Annexure P-11) on dated 26.03.2018 at around 3:30 PM for just seeking adjournment on the said genuine grounds,”.

He also submitted that no affidavit was ever sought from the opposite party at the time when adjournments were granted on their requests.

Therefore, pleading alleged harassment and mental trauma due to his heart condition, the suit was sought to be transferred.

6. A reply having been filed by the 1st respondent herein to that application before the District Judge (copy Annexure P-3), it was contended

therein that the petitioner is a well educated person with a Bachelors' Degree in Science and a Masters' Degree in Law, “who was trying to befool, defraud the respondent no.1 who is very less educated, however closely related to the applicant”. As regards the dismissal of the application seeking clubbing of the two cases, it was contended by the 1st respondent herein in his reply before the District Judge, that the two cases were actually not inter-connected (and therefore did not require to be clubbed together) and as regards adjournments granted, there were sometimes long and sometimes short adjournments, 'as per the circumstances prevailing'.

Further, it was stated that the order dated 26.03.2018 was passed because the case was fixed for cross-examination of the petitioner himself, with him not having appeared before the trial court till 3:30 PM, despite that court continuing to wait for him.

It was also stated that simply because placing of a supplementary affidavit on record (of witness Punit Sekhri), had been allowed by this court in the revision filed by the petitioner, that it did not mean that the petitioner could not be examined, and as a matter of fact when the petitioner was being cross-examined, he was answering questions by adding irrelevant answers, leading to the trial court directing the counsel for Ajay Trehan to cross-examine the petitioner “in question form”.

Thus, it was contended that it was the attitude of the petitioner that actually led to the passing of the said order.

7. Yet further, the reply of the respondent before the learned District Judge, states that a perusal of the interim orders passed by the trial court would show that adjournments had been granted to both sides by that court and consequently, the allegations of the petitioner against the learned

Civil Judge, on the basis of which he wanted to get the case transferred, were wholly without any foundation or basis.

8. Having considered the matter, the learned District Judge, vide the impugned order, after considering the pleadings and arguments raised before her, recorded detail findings, also stating that in fact she had called for the comments of the Presiding Officer seized of the trial in the two suits, which comments had been received.

Thereafter, the learned District Judge has gone on to reproduce the interim orders passed by the trial court on 11.04.2017, 04.07.2017, 21.07.2018, 07.09.2017, 26.10.2017, 02.12.2017, 19.12.2017, 08.01.2018, 19.01.2018, 25.01.2018, 09.02.2018, 14.02.2018, 27.02.2018, 14.03.2018 and 26.03.2018.

(The order dated 07.09.2017 has been erroneously typed as 07.09.2010 in the impugned order of the District Judge).

9. Having noticed the contents of the aforesaid orders in detail, the learned District Judge recorded a finding that a perusal thereof made it clear that it was the petitioner himself (referred to as the defendant by the District Judge in that part of the order), who was not obeying the order of the court and was trying every method to delay the case which was of the year 2012 and was therefore one of the oldest case in the court, also being one in the category of 'Action Plan Cases' for the years 2017-18/2018-19.

The comments of the learned Civil Judge were also referred to by the District Judge, to the effect that she (i.e. the Civil Judge) had never acted unfairly or in a biased manner.

The District Judge thereafter came to the conclusion that the petitioner and his co-defendants were not concluding evidence despite

sufficient number of opportunities granted, despite which his evidence had actually still not been closed, with it remaining pending.

10. In her comments to the District Judge, the dismissal of the application for clubbing of the two cases was justified by the Civil Judge stating that it was disposed of more than year earlier on 20.02.2017 and despite denying consolidation, it had still been observed that both the cases should be decided simultaneously.

As regards the allegation of the petitioner that a stay application had been suddenly decided in favour of the opposite party, the explanation of the learned Civil Judge was that in fact it was the petitioners' own allegation that the stay application had remained pending since May 2012 with the previous Presiding Officer, and consequently, after the Civil Judge whose actions are being challenged by the petitioner, joined her duties at Kharar (as part of Sessions Division Mohali), in April 2016, she disposed of the said application on 05.08.2016.

11. As regards the order dated 26.03.2018 refusing to adjourn the matter on the request of the petitioners' counsel, the Civil Judges' comments (as per the order of the learned District Judge), were that the petitioner had wrongly alleged that she had refused to accept and place on record his request for such adjournment alongwith his affidavit, whereas, as a matter of fact, the said application and affidavit of the petitioner were very much on the record of the judicial file. However, as the petitioners' suit (as a plaintiff) was already pending at the stage of rebuttal evidence and for arguments, therefore he had been directed to remain present in court on 26.03.2018. As per the impugned order, the Presiding Officer had, at the end of her comments, also stated that she had no objection if both the suits were transferred to some

other court.

12. After giving the aforesaid background, including the comments of the learned Civil Judge, the impugned order of the learned District Judge goes on to state that though Section 24 of the Code of Civil Procedure does not prescribe any specific ground for ordering the transfer of a case, discretion (naturally) has to be exercised judiciously and such transfer can only be ordered if it is found to be just and proper, including if a party to a suit has a reasonable apprehension that justice would be denied to him.

However, a mere suspicion by any party would not constitute a valid ground for transfer and transferring the case would be a serious matter because “it casts doubt on the integrity and competency of the Judge, from whom the matter is transferred and this cannot be done without a proper and sufficient cause”.

Consequently, further observing that parties to a *lis* should have confidence in the justice delivery system, the application was dismissed.

13. When this petition had initially come up for hearing, this court had, without having issued notice at that stage, looking at the long arguments addressed by learned counsel for the petitioner, reserved judgment on July 18, 2018.

Thereafter, order had been pronounced issuing notice (of motion) to the respondents, on July 31, 2018.

That complete order is reproduced hereinbelow:-

“The petitioner challenges the order of the learned District Judge, SAS, Nagar, dated 10.05.2018, by which his application under Section 24, read with Section 151 of the Code of Civil Procedure, has been dismissed.

By the said application he had sought transfer of two suits pending before the Court of a particular judicial officer, to any

other Court within SAS Nagar.

Though the petitioner has alleged *malafides* against the judicial officer, vide the impugned order the learned District Judge, has dealt with the application in detail, giving reasoning for rejecting most contentions raised by the petitioner as grounds for transfer of the suits.

Eventually the application was rejected mainly on the ground that transfer of cases cannot be made simply of suspicion in the mind of a litigant.

Mr.Chawla, learned counsel for the petitioner, had addressed arguments in detail and had wished to address arguments on the issue even further, and eventually had submitted a “brief synopsis” of the petitioners’ contentions, on the basis of which he seeks transfer of the suits at the fag end of the trial.

In view of the long arguments that learned counsel wished to address, with him also having submitted infact a very long synopsis, this Court had reserved judgment 10 days ago in order to appreciate the contentions raised, though I had expressed my *prima facie* view to learned counsel that I would probably not interfere with the impugned order, which is a very detailed one and otherwise seems to be well reasoned.

However, two things which are weighing on the mind of this Court are, that the petitioner had raised an issue of liberal adjournments being granted to the respondent/plaintiff, whereas in the case of the petitioner it is alleged that adjournments were granted by the learned Civil Judge very sparingly. Though that question has been dealt with in a fair amount of detail by the learned District Judge, however one aspect weighing in my mind, which was argued very strenuously by learned counsel also, is that on 26.03.2018 the petitioner had sought an adjournment on the ground that he was to appear before a commission of inquiry presided over by an hon’ble retired Judge of this Court, but even with that ground having been “given to the learned Civil Judge”, she directed that he be present on that day in the Court and file

an affidavit that he had actually appeared before the commission of inquiry.

Though that also may have been to establish the *bonafide* credentials of the petitioner, however, he also having been shown to be a heart patient with an electronic device implanted, therefore it having been contended that he had been put to great stress despite requests made to the learned Court, simply as yet to determine the veracity of the contentions raised, let notice be issued, to respondent no.1 only at this stage, returnable on 10.08.2018, with liberty also to serve him through his counsel appearing before the trial Court.

Dasti process only.

To be taken up immediately after the urgent list.

The trial Court would adjourn the matter to a date beyond that given by this Court till the next date of hearing. It is made clear that if *dasti* notice is not collected and respondent no.1, is not shown to be served, the interim order would be liable to be vacated on the next date of hearing.”

14. Notice having been served and respondent no.1 having put in appearance through counsel, lengthy arguments were addressed by learned counsel for the petitioner on different dates, with counsel for the respondents also having addressed long arguments, citing various judgments of the Supreme Court, to the effect that transfer of the suit should not be made simply at the asking of the party.

It would not however be necessary to go into every detail of the arguments made by learned counsel for the petitioner, in view of the eventual view being taken by this court, the thrust of his argument being that due to the (alleged) biased of the learned Presiding Officer, the petitioner is now even scared to appear before her, especially because when he had not initially appeared on 26.03.2018, and his counsel was directed to ensure that he appears on that date itself, despite the fact that he had to appear before a

Commission of an Inquiry on the same date (headed by a former hon'ble Acting Chief Justice of this court, as already noticed), he did appear at 3:30 p.m. on that date and, as further alleged, was rebuked 'very heavily' by the Presiding Officer.

15. Mr. Chawla, learned counsel for the petitioner, had submitted that undoubtedly the petitioner was to appear and depose in the suit on that date but with him also having to appear before the Commission of Inquiry on that very date, he had not been able to appear before the trial court and therefore he asked his counsel to seek an adjournment, but with that not having been granted he had no choice but to reach there at 3:30 p.m. and explain the circumstances to the trial court.

Mr. Chawla had further submitted that actually the learned Presiding Officer had got irritated (again as alleged) after the order passed by her on 16.02.2018, rejecting the application of the petitioner for leading additional evidence, had been set aside by this court in Civil Revision no.1842 of 2018 on 19.03.2018 (a copy of which is annexed as Annexure P-12 with the present petition).

16. Though Mr. Chawla also referred to orders of the learned Presiding Officer dated 20.02.2017, declining to club the two suits instituted by the petitioner and respondent no.1, as also an order dated 31.01.2017 (not annexed with the petition but produced in court by learned counsel), in which the two cases are referred to as connected cases, I do not consider it necessary to go in detail into those orders because admittedly the order declining to club the two cases has not been challenged by the petitioner with any success, by way of any revision petition before this court.

17. Mr. Chawla then cited a judgment of the Supreme Court in

Kulwinder Kaur @ Kulwinder Gurcharan Singh v. Kandi Friends Education Trust and others 2008 (1) RCR (Civil) 821.

In that case, the election of the Chairperson of the Kandi Trust was challenged by way of two civil suits in Sessions Division, Ropar. One of the plaintiffs thereafter filed a transfer application under Section 24 of the CPC before this court, seeking that the suit be transferred from Ropar to any court of competent jurisdiction in Chandigarh or in the State of Haryana, alleging that the matter was being unnecessary delayed by the court at Ropar, the allegation being “local pressure”, leading to the delay.

A co-ordinate Bench of this court while observing that though counter allegations had also been made by the defendants in the suit, yet without going into the allegations and counter allegations, it would be appropriate to transfer the suit to Chandigarh, it was so directed, with a direction given to the trial Judge at Chandigarh to decide the matter expeditiously, giving two opportunities to each party over a period of 6 months.

18. That order of this court having been challenged before the Supreme Court, their Lordships first observed as follows:-

“14. Although the discretionary power of transfer of cases cannot be imprisoned within a strait-jacket of any cast-iron formula unanimously applicable to all situations, it cannot be gainsaid that the power to transfer a case must be exercised with due care, caution and circumspection. Reading Sections 24 and 25 of the Code together and keeping in view various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by courts. They are balance of convenience or inconvenience to the plaintiff or the defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit; issues raised by the parties;

reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interested in the litigation; “interest of justice” demanding for transfer of suit, appeal or other proceeding, etc. Above are some of the instances which are germane in considering the question of transfer of a suit, appeal or other proceeding. They are, however, illustrative in nature and by no means be treated as exhaustive. If on the above or other relevant considerations, the court feels that the plaintiff or the defendant is not likely to have a “fair trial” in the court from which he seeks to transfer a case, it is not only the power, but the duty of the court to make such order.”

Thereafter, it was further observed by their Lordships as follows:-

“In the case on hand, the High Court without stating anything whatsoever as to allegations and counter-allegations, without considering the reply submitted by the appellant herein and without recording any reason/ground passed the impugned order transferring the case. The learned counsel for the contesting respondent no doubt submitted that the Court has not observed anything since observations by a High Court one way or the other might prejudice one of the parties to the suit. It is true that normally while making an order of transfer, the court may not enter into merits of the matter as it *may* affect the final outcome of the proceedings or cause prejudice to one or the other side. At the same time, however, an order of transfer must reflect application of mind by the court and the circumstances which weighed in taking the action.

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Unfortunately, the High Court allowed the application observing that it would be “appropriate” to transfer the suit pending in the Court of Smt Asha Konal, Civil Judge (Senior Division), Ropar to the Court of Shri Y.S. Rathore, Additional Civil Judge (Senior Division), Chandigarh. In our opinion, powers under Section 24 of the Code cannot be exercised ipse dixit in the manner in which

it has been done. Only on that ground and without entering into larger issue, the appeal deserves to be allowed and is accordingly, allowed.”

Observing as above, the order passed by this court was set aside and the matter remitted to this court for fresh disposal after hearing parties.

19. Mr. Chawla submitted that though undoubtedly in that case the Supreme Court had set aside the order of this court, by which transfer of the suit was ordered from Ropar to Chandigarh, it was on the ground that the order of transfer must reflect due application of mind and the circumstances which weighed with the court to pass the order.

He submitted that though the impugned order of the learned District Judge is a very detailed order, that court has not taken into consideration (as contended) the health condition of the petitioner and has also not seen that adjournments were granted to the opposite party liberally, with any adjournments granted to the petitioner being almost always qualified with a last opportunity to conclude his evidence; and therefore there is lack of application of mind on that count.

He also repeated that other than that, what the learned District Judge had not considered, is the fact that the order dated 26.03.2018 was passed by the trial court reflecting its bias, despite the petitioner having brought to its notice that he could not appear on that date because he had to appear before a Commission of an Inquiry and actually the bias in the mind of that court was further strengthened by the fact that its order dated 16.02.2018 had been set aside by this court one week earlier on 19.03.2018.

He further reiterated that the petitioner, being a heart patient with a pace maker inserted, has developed a fear of the Presiding Officer of the trial court because of her (alleged) attitude towards him, especially from

26.03.2018 onwards.

Consequently, he submitted that it was a case where the trial needs to be transferred to some other officer, with in any case the Presiding Officer having expressed her mind to the District Judge that she had not no objection to such transfer.

20. *Per contra*, Mr. Harminder Singh, learned counsel appearing for respondent no.1-plaintiff, relied upon two judgments of the Supreme Court and a few of co-ordinate Benches of this court, to submit that, firstly, proceedings before the trial court would not be questioned by this court other than by reference to the orders passed by that court, and consequently, the allegations of bias in the attitude of that court, would not be something which this court would like to go into.

In that context, he cited a judgment in **State of Maharashtra v. Ramdas Shrinivas Nayak and another** AIR 1982 SC 1249, from which he specifically referred to the following:-

“When we drew the attention of the learned Attorney General to the concession made before the High Court, Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submission made by him in the High Court. We are afraid that we cannot launch into an enquiry as to what transpired in the High Court. It is simply not done. Public Policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. “Judgments cannot be treated as mere counters in the game of litigation.” (Per Lord Atkinson in **Somasundaran v. Subramanian**, AIR 1926 PC 136). We are bound to accept the statement of the Judges recorded in their

judgment, as to what transpired in court. We cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence.”

The same observation from *Ramdas'* case was also reiterated by their Lordships in **Bhavnagar University v. Palitana Sugar Mill Pvt. Ltd. and others** AIR 2003 SC 511.

21. Next, from the judgment in **Bhajan Lal v. M/s Jindal Strips Ltd. 1995 (2) RRR 19**, learned counsel referred to the following:-

“20. The appellant is the Chief Minister of a State. Against him allegations of *mala fides* are made by the first respondent. He might have strongly resented such allegations quite understandably desired to defend himself. On that score, it cannot be said, a particular Bench cannot hear the case. Whatever might have been the reason for the transfer of the writ petition from one Bench to another to make that a ground for allegation of bias appears unjustified. May be, either because of a particular practice prevailing in a court that the Bench which directed the posting of a case should finally hear the matter or because of the change of roasters, the case would have come before a particular Bench. There is nothing to indicate that the then Acting Chief Justice S. S. Sodhi evinced an interest in hearing this matter or that, he was biased.

21. Bias is the second limb of natural justice. Prima Facie no one should be a judge in what is to be regarded as 'sua cause', whether or not he is named as a party. The decision-maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may

be direct, it may be indirect, it may arise from a personal relationship or from a relationship with the subject-matter, from a close relationship or from a tenuous one.”

From a judgment of a co-ordinate Bench of this court in **Vijay Singh and others v. Gram Panchayat Assan Kalan and others** 2016 (3) **RCR (Civil) 127**, Mr. Harminder Singh referred to the following paragraph:-

“3. A Judge who works from morning through evening under public gaze at all times is expected to distance himself emotionally from anything that happens by way of exchanges between the counsel and the Presiding Officer. The justice is always to be done to the parties uninfluenced by even an unworthy conduct of any person, be it a lawyer or Judge. The judicial training that takes place surely insulates a Judge from maintaining such an objective approach to a case. I am also not convinced that the Judge could be in any way influenced against the respondents before the appeal only because he has expressed himself against a particular party who is also a lawyer before the Court and has directed action to be initiated for consideration for contempt. This cannot force a Judge to rescue himself from the case or seek for transfer of the case to some other Court.”

22. Learned counsel therefore submitted that with this court having been taken through, in detail, all the interim orders passed by the trial court, and no favouritism being evident as regards the adjournments granted to one party or the other, with possibly more adjournments in fact granted on the request of learned counsel for the present petitioner, the allegation of bias against the learned Presiding Officer is wholly unfounded and to be deprecated by this court and consequently, the petition deserves to be dismissed.

23. Having considered the matter in fair detail, as regards the allegation that the Presiding Officer had shown any bias to the petitioner on

account of longer adjournments granted to the respondents and not to the petitioner, I see absolutely no foundation to that argument and consequently I also see no reason to fault the impugned order passed by the District Judge on that count.

The suits filed by the parties were sometimes adjourned as the cross-examination could not be completed, sometimes because the witnesses did not turn up, sometimes because the counsel for one party or the other remained absent and sometimes on the request of one party or the other themselves pressing some difficulty, with the petitioner also taking the plea of having to go out of the country, twice.

In fact, the orders of the trial court reflect that it was the petitioner himself who was seeking adjournments more than the other side, for one reason or the other, though possibly the reasons may have been genuine on a number of occasions and he was therefore being accommodated whenever an adjournment was sought, as was the respondent, who on one or two occasions had been granted long adjournments.

Therefore, at least as regards the issue of granting adjournments is concerned, nothing whatsoever is discernible from the interim orders that the petitioner was discriminated against, by the trial court granting adjournments either to him or to respondent no.1.

24. As regards the order dated 26.03.2018, on which great stress was laid by the learned counsel for the petitioner, undoubtedly, it does indicate some annoyance of the trial court due to the reason that despite the petitioner having been given a final opportunity to testify, himself, he did not turn up till 3:30 p.m., with counsel for the petitioner saying that was also because the trial court had pressurised his counsel to call him, but part of such annoyance,

in my opinion, would also be from the fact that the evidence was not getting concluded over a long period of time; as the *zimni* orders produced by both learned counsel show that in the case instituted by respondent no.1, evidence was in progress at least since 06.01.2017, and in the suit instituted by the petitioner, at least since 16.01.2017.

On the dates that some witness or the other for the petitioner-defendant were present, the petitioner had requested for an adjournment on three occasions, counsel for the respondent sought an adjournment twice or thrice, and on the other occasions either some/no witnesses turned up. On 3 occasions, the matter had been deferred because the learned Presiding Officer was proceeding on leave.

25. Having noticed that, what this court cannot ignore is the fact that the petitioner is stated to be a heart patient, with a pace maker inserted to regulate his heartbeats, as per the certificate, Annexure P-7, issued by the Fortis Hospital, Mohali. Though the said certificate is a discharge summary pertaining to the admission of the petitioner to hospital on 12.06.2014 and his discharge thereafter, after 4 days, it does of course give his medical condition, including the fact that there was complete blockage in his heart, after which he was operated upon.

Hence, essentially keeping that condition in mind and the vehemence with which it has been stressed by learned counsel for the petitioner that there was extreme 'bad blood' in the trial court on 23.06.2018, with the petitioner feeling very in intimated and scared, in my opinion simply because of his medical condition, lest some untoward occurrence happens, it would be in the interest of justice to direct the learned District Judge, Mohali, to transfer the matter to a different court, though without casting any

aspersion whatsoever on the learned trial court, and naturally, with absolutely no aspersion made on the impugned order passed by the learned District Judge.

Ordered accordingly.

It is, however, made absolutely clear that the petitioner shall be given only two opportunities within a period of one month to conclude his evidence before the court to which the two suits would be assigned by the District Judge, with the proceedings before the said court to be taken up from the stage that they were at immediately prior to 26.03.2018.

If the petitioner does not conclude his evidence within the given period of one month even after availing two opportunities, the learned trial court would close his evidence by order.

26. It needs to be said here that in such a case where one party is seeking transfer of his case to another court within the same Sessions Division, such a long judgment need not in fact have been given by this court. However, this court having allowed counsel for the parties to address long arguments on the matter, such arguments and at least some details thereof, were felt necessary to be noticed.

27. This petition therefore stands allowed solely on ground of the medical condition of the petitioner, as shown vide the certificate Annexure P-7.

February 25, 2019
dinesh

(AMOL RATTAN SINGH)
JUDGE

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	Yes