

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

TA-125-2019 (O&M)

Date of decision: 30.05.2019

Dinesh Kumar @ Naresh Kumar @ Kuka and others

...Applicants

Versus

Amit Mahajan

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Dinesh Mahajan, Advocate for
Mr. Rimple Saini, Advocate for the applicants.

Mr. Dheeraj Mahajan, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

This application under Section 24 of CPC for transfer of Rent Petition titled 'Amit Pal Vs. Dinesh Kumar and others' pending in the Court of Rent Controller, Gurdaspur to some other Court of competent jurisdiction in nearby District has been filed by petitioners Dinesh Kumar @ Naresh Kumar @ Kuka, Ramesh Kumar and Vipin Kumar, arraying Amit Mahajan as respondent.

According to the petitioners, they are victim of betrayal and breach of trust by their own counsel Sh. Akash Mahajan who earlier defended them in eviction petition before the trial Court and thereafter, purchased the shop in question and filed the eviction petition against his clients i.e. the petitioners. *Inter alia*, in the petition, it is alleged that petitioner Nos.2 & 3 had engaged Sh. Akash Mahajan, Advocate to defend their case, who during the pendency of the appeal purchased the said shop in the name of his wife Ms. Rupali Mahajan and became party in the appeal.

However, the appeal was decided in favour of the petitioners. Thereafter, Sh. Akash Mahajan has purchased the second shop which is in possession of the petitioners from the same landlord and filed ejectment petition against them. The petitioners appeared and filed written statement alleging that Sh. Akash Mahajan was their earlier counsel, then, he immediately withdrew the petition without permission to file fresh and on the same day, he executed a sham sale deed in favour of his colleague Sh. Amit Mahajan, Advocate, who is also Member of the Local Bar at Gurdaspur. In that way, Sh. Amit Mahajan and Sh. Akash Mahajan have been trying to get the petitioners ejected from the shops adopting all sort of tactics and the petitioners, thus, they have an apprehension of not getting justice.

Notice of the application was given to the respondent, who put in appearance through counsel. No written reply has been filed.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioners has reiterated the assertions in the application for transfer of the case, whereas, learned counsel for the respondent has strongly refuted those contentions, praying that no ground is made out to transfer the case. In support of his contentions, he has referred to various judgments i.e. **Jagan Nath Vs. Hari Sharn Sharma, 1997(1) RCR (Civil) 714, Pritpal Singh Vs. Subash Chander and another** in TA-6973-2018, decided on 11.01.2019, **DAV College, Hoshiarpur Society (Regd.) and another Vs. D.M Sharma and others, 2005(1) RCR (Civil) 71, Paramjit Singh Vs. Balraj Singh, 2005(4) RCR (Civil) 186 and K.K. Rice & General Mills Vs. M/s Sharma Commission Agent and others** in

TA-445-2017, decided on 24.08.2017 by this Court.

After hearing, learned counsel for the parties and going through the record, I find that it is settled maxim of law that justice should not only be done but also appear to have been done. Keeping in view the narration of facts in the transfer application, the apprehension expressed by the petitioners cannot be termed to be baseless or without any justifiable reason. The judgments cited by learned counsel for the respondent are also not applicable due to different facts and circumstances and the context in which such observations had been made. Therefore, it would be proper and appropriate and in fitness of things, if the application is accepted. Therefore, the application in question is allowed. The petition in question is ordered to be withdrawn from the Court of Rent Controller, Gurdaspur and transferred to the Court of Civil Judge (Sr. Divn.)-cum-Rent Controller, Amritsar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 23.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

Learned counsel for the respondent has contended that the transferee Court be directed to dispose of the matter promptly. Of course, expeditious disposal is right of every litigant. Therefore, the transferee Court is directed to make earnest efforts to dispose of the case at the earliest by giving short adjournments.

30.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No