

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

TA-643-2019 (O&M)

Date of decision: 11.09.2019

Surjit Kaur and another

...Applicants

Versus

Rajinder Singh

...Respondent

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

Present: Mr. C.R. Olla, Advocate for the applicants.

H.S. MADAAN, J. (Oral)

By way of moving the present application, applicants Surjit Kaur and her husband Nachhattar Singh pray for transfer of civil suit filed by respondent Rajinder Singh against them, having title 'Rajinder Singh Vs. Surjit Kaur and another', pending in the Court of Addl. Civil Judge (Sr. Divn) Moonak (Sangrur) to the Court of competent jurisdiction at Ambala, where the similar type dispute is already pending between the parties.

According to the applicants, applicant No.2 Nachhattar Singh, aged about 63 years is a senior citizen and is 80% disabled person, having amputation above knee in the right leg due to injuries suffered in a road side accident in the year 1995. The only son of the applicants, namely, Kamaldeep Singh had died in a road side accident on 21.07.2015. Kamaldeep Singh was a registered owner of a car bearing registration No. HR-01-AG-1558. Respondent Rajinder Singh,

who is a distant relative of applicant No.2 had allured the applicants that he would sell the car at high price and took away the car in August, 2015. He then used the car himself and thereafter, handed over the same to some other person without the consent of applicants. The applicants have filed a suit for mandatory injunction for issuance of direction to defendant/respondent to return the car and to hand over the peaceful possession of same to the plaintiffs/applicants, in the Court of Civil Judge (Sr. Divn.) Ambala. On the other hand, Rajinder Singh has also filed a suit against the plaintiffs/applicants in the Court of Addl. Civil Judge (Sr. Divn.) Moonak, which relates to the similar dispute. Therefore, the present application be accepted.

I have heard learned counsel for the applicants besides going through the record and I find that there is no merit in the application for various reasons. Firstly, the nature of the proceedings sought to be got transferred to the Court of competent jurisdiction at Ambala is in the form of civil suit, where personal appearance of the parties is not required and they can appear in such proceedings through their counsel or authorized agents. Secondly, the applicants have a remedy of approaching the trial Court at Moonak, District Sangrur by moving an application under Order 7 Rule 10 CPC for return of the plaint for presentation in the Court of competent jurisdiction at Ambala, if the applicants feel that the Court at Moonak, District Sangrur lacks territorial jurisdiction to entertain and try the suit filed

by the respondent against them. Yet another remedy available with them is to approach the Court at Moonak by moving an application under Section 10 CPC, seeking stay of suit, if the suit filed by them pending in Court at Ambala was instituted prior to the civil suit pending in Court at Moonak. Thus, finding no merit in the instant application, the same stands dismissed.

11.09.2019
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No