

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

**TA-6978-2018(O&M)
Date of decision:-11.2.2019**

Jagroop Singh

...Applicant

Versus

Gurpreet Singh and another

...Respondents

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

Present : Mr.Raman Chawla, Advocate
for the applicant.

Mr.Aayush Gupta, Advocate
for the respondent.

H.S. MADAAN, J.

This application under Section 24 CPC for transfer of rent petition titled 'Gurpreet Singh etc. Versus Jagroop Singh' pending in the Court of Rent Controller, Ludhiana to any other Court of competent jurisdiction has been filed by respondent/tenant Jagroop Singh.

According to the applicant, the Rent Controller had passed an order on 28.9.2016 when he was on casual leave for second half; the applicant has challenged that order in this Court and this Court has called the comments from the District & Sessions Judge, Ludhiana; that

the attitude of the judicial officer towards the applicant is biased and he has been pre judging merits of the rent petition; that the applicant had approached learned District & Sessions Judge, Ludhiana seeking transfer of the rent petition to some other Rent Controller but the same was dismissed by learned District & Sessions Judge, Ludhiana vide order dated 29.9.2018.

Feeling aggrieved, the applicant has approached this Court by way of filing the present application, notice of which was issued to the respondents, who appeared through counsel and filed written reply opposing the application vehemently submitting that it was filed with a *mala fide* intention just to prolong the proceedings, as such it should be dismissed. Copies of the interim orders in support of such contentions have been attached.

The comments of the officer were also called, who has denied the allegation against him submitting that the applicant – tenant is getting adjournments and asking for adjournment without any justification and allegations levelled by him are wrong.

I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the application.

The Rent Controller is merely performing judicial functions. There is nothing on record to show that he has got any favourable inclination towards the opposite party or hostility towards the applicant. Merely because the officer is trying to conduct the proceedings in an expeditious manner, which may not be to the liking of the applicant, does not mean that the applicant would control the

proceedings and put a spoke in the wheel by misuse of judicial process, moving successive applications for transfer of the rent petition. Learned District & Sessions Judge, Ludhiana vide a detailed order had dismissed the transfer application. A District & Sessions Judge is in the best position to know about integrity and reputation of the officer working under his control and his views and opinion deserved to be given due weightage. Learned District & Sessions Judge, Ludhiana in the order dated 29.9.2018 has given the reasoning for dismissal of the application, which is as under:

After considering the respective submissions and perusing the record of trial court, this court finds that the rent petition in question was received by transfer on 30.8.2016 by Sh.Varinder Kumar, Ld. RC, Ludhiana at the stage of recording of remaining evidence of petitioner. Thereafter, case remained pending on different dates. Counsel for petitioner closed the evidence on 5.1.2018 and case was adjourned for evidence of respondent. This application was moved on 20.9.2018 and taken up in this court on 21.9.2018. The applicant already availed eight opportunities but failed to produce the evidence. Even in the order dated 21.9.2018, it is written that applicant failed to produce RW-1 Madan Lal to face the test of his cross examination. Learned Rent Controller closed the evidence of respondent by order on 21.9.2018. Petition is pending since 2014 and is in the category of action plan cases. There is tendency to prolong the case when it is at the fag

end. Mere presumption or possible apprehensions are not sufficient; only good and sufficient grounds, clearly set out in the application, may justify the transfer and a transfer should not readily be granted on the basis of such like vague and baseless allegations. As such, finding no merit in the transfer application, the same is hereby dismissed. Copy of this order be sent to the court concerned for information. Record of court concerned be returned immediately. This file be consigned to the record room.

Thus it comes out that the applicant is trying to stretch the proceedings in one way or the other filing applications for transfer with *mala fide* intention. Such type of scheming litigants need to be discouraged from misusing the process of law. From the documents placed on record by the respondents, it comes out that earlier the applicant had got the petition transferred by moving application before learned District & Sessions Judge, Ludhiana when it was pending before Dr.Sushil Bodh, Rent Controller, Ludhiana. The allegations therein were that the Presiding Officer was harassing the applicant by giving short dates. The applicant seems to be indulging in such type of activities obviously to prolong the proceedings to the extent possible and to avoid the result of the ejectment petition filed against him. A perusal of the interim orders placed on the file by the respondents goes to show that respondent has been taking frequent adjournments for one reason or the other and the Rent Controller had been granting the adjournments many a times without any justifiable reason. The grievances and grouse of the

applicant are absolutely without any basis.

The application is, therefore, dismissed with costs.

11.2.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No