

Sr. No. 245

2023:PHHC:060496

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

CR-6996-2018 (O&M)

Date of decision: 26.04.2023

Jagjit Singh

...Petitioner

Vs.

Raj Rani (since deceased) through LRs and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashish Singh, Advocate for
Mr. Ashwani Arora, Advocate,
For the petitioner.

None for the respondents.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 08.09.2018 (Annexure P-2) passed by Learned Motor Accidents Claims Tribunal, Mohali, whereby execution was transferred to learned District Judge, Ludhiana even in the absence of counsel.

2. Learned counsel appearing on behalf of petitioner submits that claim petition was filed by respondents No.1 and 2 herein, namely, Smt. Raj Rani and Mangat Ram against petitioner (owner of the alleged offending car) and pro forma respondent No.3 Gurvinder Singh (driver of the car) on account of death of Harpreet Singh in a motor vehicular accident on 03.01.2015. Petitioner was proceeded *ex parte* on 20.04.2017 and thereafter *ex parte* Award (Annexure P-1) was passed on 12.12.2017.

3. Learned counsel for petitioner would further submit that pending execution proceedings against him were ordered to be transferred outside the district, without passing any order on his pending application to set aside *ex parte* order dated 20.04.2017 and Award 12.12.2017 (Annexure P-1). It was

further recorded in order dated 20.08.2018 (Annexure P-3) that 'parties are aheading towards compromise', even though none had appeared on behalf of petitioner/judgment debtor and presence of unauthorized proxy counsel was recorded, contends the learned counsel.

4. I have heard learned counsel for petitioner and gone through the case file.

5. Revision was filed in the year-2018 and for one reason or the other, it has been adjourned from time to time. I see no reason as to why further adjournment be granted. In order to meet the ends of justice, though respondents are not represented, same is being disposed of, as no prejudice would be caused to respondents, given the nature of order being passed.

6. Reference may first be had to Section 24 of CPC, which is reproduced as under:-

“ Section 24. General power of transfer and withdrawal:

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which ¹[is thereafter to try or dispose of such suit or proceeding] may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

²*[(3) For the purposes of this section,*

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) proceeding includes a proceeding for the execution of a decree or order].

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

³[(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it.]”

6.1. Since it is borne out from the record that petitioner-owner of the alleged offending vehicle is a resident of District Ludhiana. In premise, the main case itself is transferred to MACT, Ludhiana and at the same time transfer of execution petition is also affirmed by this Court exercising its powers under Section 24 CPC, *ibid*.

7. However, it is made clear that non-interference in the impugned order shall not preclude the petitioner from pursuing his pending application under Order 9 Rule 13 CPC before the Transferee Court, which shall proceed, in accordance with law, to dispose of the same. Transferee Court/MACT Ludhiana shall be at liberty to proceed on merits of the case, in case the pending application under Order 9 Rule 13 CPC is decided in favour of petitioner.

8. It is made clear that during pendency of the proceedings before learned Transferee Court, there shall be no stay on the compensation already awarded.

9. Disposed of accordingly.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

26.04.2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No