

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

CR-634-2023

Date of decision:-31.1.2023

Major Singh and another

...Petitioners

Versus

Surjit Singh and others

...Respondents

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

Present: Mr.P.K.S. Phoolka, Advocate
for the petitioners.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiffs Major Singh and Gurmail Singh had brought a suit against defendants Dalip Kaur and others seeking specific performance of agreement to sell dated 16.1.2006. That civil suit was decreed by Civil Judge (Jr.Divn.), Talwandi Sabo vide judgment and decree dated 2.3.2020.

2. Feeling aggrieved, the defendants had filed an appeal before District Judge, Bathinda, which was assigned to Additional District Judge, Bathinda. During the pendency of the appeal, the plaintiffs Major Singh and Gurmail Singh, who are respondents No.1 and 2 in the appeal, had filed an application before District Judge, Bathinda for transfer of the appeal from the Court of Sh.Hira Singh Gill, Additional District Judge, Bathinda to some other Court, for free and fair decision of the case

contending that Sh.Hira Singh Gill, Additional District Judge, Bathinda is openly favouring the appellants/defendants right from the date, he had taken the charge and he is conducting the proceedings in a bias manner towards the plaintiffs/respondents. The reasons given for arriving at such conclusion are as follows:

- (i) that defendants had filed an application under Order 41 Rule 5 CPC for staying the operation/implementation of the judgment and decree dated 2.3.2020 passed by the trial Court where no ex-parte stay was granted in favour of the appellants by earlier Presiding Officer Sh.Mohammad Gulzar, however when Sh.Hira Singh Gill, Additional District Judge, Bathinda took over, he stayed the operation of the judgment and decree passed by the trial Court without giving any opportunity to the plaintiffs of being heard. However, later on after gaining knowledge about the order, the plaintiffs filed reply to the application disclosing all the facts, however stay was not vacated by Sh.Hira Singh Gill, Additional District Judge, Bathinda;
- (ii) that the plaintiffs/respondents No.1 and 2 had filed an application for early hearing of the main appeal but to no effect and the matter is lingering on;
- (iii) that the appellants/defendants had filed an application on 22.11.2021 for permission to lead additional evidence, which was hotly contested by the plaintiffs/respondents by filing reply but even then the application was allowed on payment of cost;
- (iv) that the plaintiffs/respondents were suspecting some foul-play and

on 27.9.2022, they filed an application for summoning the witnesses along with record in rebuttal to the additional evidence led by the appellants/defendants but the Presiding Officer did not allow them to deposit the diet money and to summon the witnesses with record; and

(v) that the defendants are openly proclaiming that they have approached the Presiding Officer and would get a favourable verdict, in that way, the plaintiffs/respondents have lost their faith in Sh.Hira Singh Gill, Additional District Judge, Bathinda and have no hope to get justice from that Court.

Therefore, the case be transferred from the Court of Sh.Hira Singh Gill, Additional District Judge, Bathinda to some other Court of competent jurisdiction.

3. Notice of that application was given to the appellants/defendants, who appeared and hotly contested the application.

4. Learned District Judge, Bathinda vide a detailed order dated 19.1.2023 has dismissed the application.

5. Feeling aggrieved, the plaintiffs/respondents have approached this Court by way of filing the present revision petition.

6. I have heard learned counsel for the petitioners besides going through the record and I find that such revision petition is without merit.

7. The reasons given by the applicants/plaintiffs on the basis of which they are allegedly doubting the fairness of the Presiding Officer mainly touch the judicial functioning of the officer. A recent trend has

been noticed that whenever an order is passed by a Judicial Officer, which is unfavourable to a particular party, the said party starts blaming the Presiding Officer and doubting his integrity, which is totally uncalled for. The other allegations levelled are of routine type, which are put forward by a litigant to lay basis for transfer of his case from a particular Court to some other Court. The litigants want to chose some particular Court(s) for adjudication of their disputes and it cannot certainly be left to discretion of litigants to do so. Learned District Judge, who is administrative head of the judiciary at District level is in best position to know about the integrity and functioning of the officers working under his control. Learned District Judge, Bathinda vide the impugned order has dealt with all the pleas put forward by the plaintiffs/respondents for seeking transfer of the appeal and found those to be without any element of merit.

8. No doubt request of a litigant to transfer his case from a particular Court can be considered, if prima facie it is shown that the Presiding Officer is favourably inclined towards the opposite party on account of close acquaintance, friendship, relations etc. and not as a result of levelling such vague and sweeping allegations. Whenever a case is transferred from a particular Court to some other Court on an application moved by a litigant levelling allegations against the Presiding Officer that does have demoralizing effect upon the Presiding Officer. Therefore, such type of applications cannot be allowed in a casual and cursory manner.

9. I do not find any fault with the order passed by the District Judge, Bathinda rejecting the application for transfer of the civil appeal from the Court of Sh.Hira Singh Gill, Additional District Judge, Bathinda

to some other Court of competent jurisdiction.

10. Finding no merit in the revision petition, the same stands dismissed.

31.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No