

TA 821/2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA 821/2022

Date of decision: 09/02/2023

Jagsir Singh

.....Petitioner

Vs.

Sanjay Kumar and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Hitesh Verma, Advocate for the petitioner.
 Mr. Naresh Jain, Advocate for the respondents.

Nidhi Gupta, J.

Respondent no.1-Sanjay Kumar instituted a suit for recovery of Rs.17,07,960/-, bearing CS/228/2018 (Annexure A-1) against the present applicant-Jagsir Singh, which is pending before Ld. Addl. Civil Judge (Sr. Div.) Gidderbaha. Present applicant Jagsir Singh also filed suit for recovery of Rs.20,10,831/-, bearing CS/2068/2019 (Annexure A-2) against respondent no.1-Sanjay Kumar and M/s Gaba Trading Company, a proprietary concern of mother of Sanjay Kumar, which is pending in the Court of Civil Judge (Junior Division), Bathinda.

Prayer in the present Transfer Application is to transfer the Civil Suit at Annexure A-1 from the Court of Addl.Civil Judge (SD) Gidderbaha to the Court of Civil Judge (Jr. Div.) Bathinda where the suit (Annexure A-2) filed by Petitioner is pending. Prayer for transfer is sought inter-alia, on the ground that: -

- (1) Both the suits are between the same parties and for recovery of money and thus, it would be in the interest of justice if both the suits are clubbed and tried together.
- (2) That the clubbing of both the suits will save time and effort of litigants and witnesses besides saving precious time of Court.
- (3) The process of execution will also be easy.
- (4) In case both suits are tried by different courts, chances of conflicting decrees cannot be ruled out which will create anomaly.

Notice of motion was issued.

Learned counsel for the applicant in support of the prayer made in the present Transfer Application reiterates the grounds for transfer of the civil suit (Annexure A-1) as noticed above.

Learned counsel for the respondent submits that:

- 1) The suit, bearing CS/228/2018 (Annexure A-1) filed by the respondent, transfer of which is sought from Gidderbaha to competent Court at Bathinda, was filed prior in time in 2018, whereas the suit filed by the petitioner was filed only in 2019;
- 2) In the suit of the respondent, the plaintiff evidence is over and defendant/petitioner has been moved against ex-parte, and said suit is at the stage of final arguments fixed for 9.2.2023; whereas,

the suit filed by the petitioner is at its initial stage and is pending at Bathinda for 15.2.2023 for the evidence of the remaining PWs.

3)Now transfer is being sought by the petitioner just to delay the decision of the said suit;

4)The cause of action in the both the suits arose at Gidderbaha and thus only the Court at Gidderbaha is having the jurisdiction on the subject matter;

5)The respondent is a resident of Gidderbaha while petitioner is residing at Rai-ke-Kalan which is at the distance of 11 kms. from Gidderbaha, and 38 kms. from Bathinda and thus, it is convenient for both sides to contest the case at Gidderbaha;

6)The suit for recovery filed by the respondent is based on pronote and receipt, whereas the petitioner has filed the suit at Bathinda only 1 year and 2 months ago, on the ground that he had sold the crops to the answering respondent and as such, is entitled for payment thereof.

Heard Ld. Counsel for the parties.

I find merit in the arguments advanced on behalf of the respondent. Admittedly, the suit of the respondent was filed prior in time to that of the petitioner and the respondent has been pursuing his suit for almost five years. Admittedly, too, the respondent's suit is at the final stage of arguments, whereas in the petitioner's suit the evidence is not yet complete. Therefore, in my view, greater prejudice and inconvenience is likely to be caused to the respondent if this petition is allowed.

For the reasons stated above, no ground is made out to interfere in the present Transfer Petition and the same is accordingly dismissed.

09/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No