

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-894-2024 (O&M)
Date of Decision:-14.02.2024

NARESH KUMAR ... Petitioner
Versus
M/S VIKRAM ELECTRIC EQUIPMENT (PVT) LIMITED ... Respondent

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CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Surinder Kumar Daaria, Advocate
for the petitioner(s).

RITU TAGORE, J. (Oral)

1. This revision is against the order dated 05.02.2024 (Annexure P-3) passed by learned District Judge, Gurugram, dismissing the transfer application bearing No.TA-154 of 2023 titled as Naresh Kumar vs. M/S Vikram Electric Equipment Pvt. Ltd.
2. Learned counsel for the petitioner submits that Civil Suit No. 45 of 2009 titled as M/S Vikram Electric Equipment Pvt. Ltd. vs. Naresh Kumar was filed by the respondent for recovery of ₹20,40,000/- along with 12% per annum *pendente lite* and future interest and said suit was decreed *ex-parte* vide judgment and decree dated 09.05.2014. Thereafter the petitioner filed an application under Order 9 Rule 13 read with Section 151 CPC and said application was fixed for evidence of the petitioner in rebuttal and arguments for 05.07.2023, but Court disposed of the same without giving opportunity to the petitioner to address arguments.
3. The learned counsel next submits that when the learned Presiding Officer was apprised of the matter, he refused to redress grievance

of the petitioner. However, later on revoked the said order and adjourned the case.

4. Learned counsel for the petitioner further argues that the petitioner filed a transfer application before the learned District Judge, Gurugram incorporating all the facts and circumstances showing a bias conduct of the learned Presiding Officer towards the petitioner, justifying the transfer of application from the concerned Court. The learned counsel for the petitioner submits that the learned District Judge failed to appreciate the facts in right perspective and erred in dismissing the application.

5. During course of arguments the learned counsel by referring to the order dated 13.02.2024 passed in the application under Order 9 Rule 13 CPC submits that the learned Trial Court again did not give the petitioner an adequate opportunity to prepare his arguments and adjourn the matter for 14.02.2024, despite apprising the learned Presiding Officer that the petitioner has preferred a revision.

6. The learned counsel further submits that when the litigant entertains a reasonable apprehension in his mind that he might not get justice in the Court, in which his matter is pending, the proper course to instill confidence in the litigant is to transfer the matter to the other Court. A prayer is made to allow the present petition.

7. I have heard learned counsel for the petitioner and have gone through the paper-book and find no good reasons warranting any interference in the order dated 05.02.2024 (P-3) passed by learned District Judge, Gurugram.

8. So far as power of transfer is concerned, Section 24 of the Code of Civil Procedure, 1908 empowers a High Court or a District Court to transfer any suit, appeal or other proceedings pending before it or in any Court subordinate to it or any other Court for trial or disposal. The said provision confers comprehensive powers on the Court to transfer suits, appeals or any other proceedings at any stage either on application by any party or *suo moto*. Perusal of order dated 05.02.2024 passed by learned District Judge, Gurugram (Annexure P-3) shows that the reply was obtained from the respondent/plaintiff who altogether denied the allegations of the applicant that any kind of preferential treatment was given to him by the learned trial Court, rather asserted that the applicant was resorting to delaying tactics. The response by the learned District Judge from concerned learned Presiding Officer was taken who denied any allegations of any favoritism to the opposite party or bias against the applicant. However, he admitted that on account of typographical mistake, instead of mentioning permission to tender the documents, application under Order 9 Rule 13 CPC is shown to have been decided in the order dated 05.07.2023 and also stated that he rectified the order after being brought to his notice by the counsel for the respondent. The learned Presiding Officer categorically denied that he was nursing any kind of bias against the applicant.

9. The learned District Judge, Gurugram after appraisal of the facts and circumstances and the record available firmly concluded that no reasonable ground existed to transfer the case as requested for by the petitioner and found the allegations levelled by the petitioner against the learned Judicial Officer as baseless. The learned District Judge after appraisal of the record observed that the learned Presiding Officer on account

of inadvertent mistake passed the order dated 05.07.2023 mentioning the disposal of the application under Order 9 Rule 13 CPC and rectified the order after gaining the knowledge of mistake. The learned District Judge found that learned Presiding Officer was not prejudiced against the applicant and rectification of the order also suggests so. The learned District Judge also observed that pendency of the revision petition before the High Court itself is no ground to transfer the case/application and such pendency does not bar the trial Court from proceeding with the case unless there is specific order not to proceed further in the case. The insistence of learned Presiding Officer to continue with the proceedings in the matter, in the circumstances cannot be taken as biasness on the part of the learned Presiding Officer.

10. Assurance of a fair trial is the first imperative of dispensation of justice. A case may be transferred if there is reasonable apprehension in the mind of the applicant that he might not get justice in the Court, in which suit is pending. However, there cannot be any straight jacket formula in such matters but the said power vested in the Court must be exercised with due care, caution and circumspection. In my opinion, the power to transfer the case as available under the Court cannot be exercised on the *ipse dixit* of an applicant seeking transfer, unless a reasonable ground exists for the same. The Court should carefully consider all circumstances surrounding the case to maintain the integrity and trustworthiness of the judicial process when addressing transfer requests to ensure that they are made for legitimate and justifiable reasons. The findings as recorded by the learned District Judge are reasonable and correct and requires no interference.

11. In view of the aforesaid discussion, the petition stands dismissed.

12. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

14.02.2024
Rimpal/Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No