

2024:PHHC:101765



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

TA-1023-2023(O&M)

Date of Decision: August 07, 2024

Manpreet Kaur and another

...Applicants

Versus

Davinder Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rahul Aggarwal, Advocate
for the applicants.

Mr.Vikrant Vij, Advocate
for the respondent.

ARCHANA PURI, J.

The applicants have filed the present application for seeking transfer of the suit for declaration filed by the respondent, titled as 'Davinder Singh vs. Prabhdeep Singh and another', pending before learned Civil Judge (Jr. Divn.), Khanna, to the Court of competent jurisdiction at Malerkotla.

In pursuance of the notice issued by the Court, the respondent made appearance through counsel and filed reply.

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the applicant No.2-Prabhdeep Singh is son of the respondent-Davinder Singh



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and applicant No.1-Manpreet Kaur is daughter-in-law of the respondent. The respondent had filed a suit for declaration to assail the transfer deed dated 11.07.2017 executed by the respondent, in favour of his son i.e. applicant No.2. The property in question is situated at village Majra (Rahoun), Tehsil Khanna, District Ludhiana.

Also, it is submitted by learned counsel for the applicants that applicants are residing in village Hathn, Tehsil and District Malerkotla. Applicant No.2, being an Army Officer is posted at unknown location and as such, is far away from the home. In the given circumstances, applicant No.1 finds it difficult to defend the civil suit for herself and on behalf of her husband, as she is required to travel about 56 Kms., on each and every date. Further, learned counsel for the applicants submitted that at the time, when the transfer application was filed, applicant No.1 was on family way, but however, she had given birth to a son, who is under her care and custody, at present. In the light of the aforesaid circumstances, a prayer has been made for allowing of the transfer application.

On the contrary, learned counsel for the respondent has refuted the claim of the applicants. It is submitted by learned counsel for the respondent that respondent is a retired Army Personnel. He is suffering from acute foot disease of edema and sclerotic foci. Also, he submits that medical record has been annexed with the reply.

In the given circumstances, it is submitted that it would be difficult for the respondent to pursue the litigation, if the transfer application is allowed. No doubt, it is submitted that applicant No.1 has given birth to a



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son, who is of tender age, at present, but however, applicant No.1 as well as her son are hale and hearty and therefore, they are in better position, as compared to the health of the respondent.

Considering the submissions made, it is pertinent to make mention to the medical record, annexed with the reply. The CT Scan report of left leg of respondent-Davinder Singh (Annexure R-1), reads as herein given:-

“Diffuse soft tissue swelling edema noted in left lower leg, ankle and foot region. Few small sclerotic foci of size 5.5 mm noted in lower end of tibia and of size 8 mm, 6 mm noted in upper part of calcaneum and 4 mm in posterior end of talus-s/o bone island.

Rest visualised bones (tibia, fibula and tarsal bones) show normal bone density.

No cortical irregularities of breach is seen.

No cortical thickening is seen.

No obvious periosteal reaction is seen.

Visualised joint spaces are normal.

No obvious fracture is seen.”

Even, there is record of Amar Hospital, Patiala, thereby, giving discharge summary of respondent-Davinder Singh, where he got admitted on 06.10.2023 and was discharged on 16.10.2023. He was admitted in the hospital with complaint of numbness in both feet, swelling in left leg, diabetic foot and fever etc. and for this ailment, treatment was extended to him. Also, report of color doppler ultrasound of bilateral lower limb arteries is Annexure R-2, which also gives impression, as herein given:-

“Monophasic flow pattern with normal flow velocity in left



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popliteal artery, anterior tibial and posterior tibial arteries and dorsals pedis arteries-s/o Peripheral Arterial Disease of left limb.

Diffuse subcutaneous edema in bilateral legs and feet.”

Besides the same, even photographs of the left foot of the respondent have been placed on record as Annexure R-3. It reflects about the medical ailment, as observed in the aforesaid medical record.

No doubt, as submitted by learned counsel for the applicants the convenience of woman, ought to be considered, in the matters relating to the transfer of litigation, but however, it is not a rule of thumb. Each case has to be decided, while keeping in view its factual background. No doubt, when the transfer application was filed, applicant No.1 was on family way, but however, she has given birth to a child and both of them are hale and hearty. As compared to the same, the respondent, who is father-in-law of applicant No.1, is having various health issues and condition of his left foot is evident from the photographs, coming forth, which finds support from the medical record.

However, convenience/inconvenience, to be there, to the either party, while the application being allowed or not, has to be considered, in the backdrop of material coming forth, in each case. In the present case, on account of medical ailment of the respondent, definitely, more inconvenience shall be caused to the respondent, in the eventuality of the transfer application being allowed, solely, while considering applicant No.1 to be a woman.



However, it is not to be done so. Some moderation ought to be made and some balancing has to be done, while considering the circumstances, spelt out, from the material coming forth.

In the light of the aforesaid observations, comparing the inconvenience of both the sides, the claim of the respondent, has an edge over the assertions made by the applicants.

Considering the same, no case is made out for transfer of the civil suit, filed at the instance of the respondent. Hence, the transfer applicant sans merit and is hereby dismissed.

August 07, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No