



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.105

TA-1033-2023
Date of Decision: 06.08.2024

JAI KISHAN VERMA AND OTHERS

....Applicants

Versus

RAMESH ROHILLA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Nitin Meel, Advocate
for the applicants.

Mr. Sandeep Kotla, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicants have filed the present application for seeking transfer of the civil suit i.e. CS-805-2017 dated 26.10.2017, titled '*Ramesh Rohilla Vs. Jai Kishan Verma and others*' (Annexure P-2), pending in the Court of Additional Civil Judge (Senior Division), Jhajjar, to the Court of competent jurisdiction at Abohar.

In pursuance of the notice issued, respondent has 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 applicants that the daughter of applicant No.1, namely, Neha, was married to Varun Rohilla, son of the respondent. However, she suffered from blood



cancer, as a result thereof, she had died. Further, it is submitted that from the said wedlock, one daughter was born from the parties to the lis, who is a student of 8th Class and she is presently in the care and custody of applicant No.1. It is further submitted that prior to the death of Neha, she had filed an application before the police authorities, but however, after her death, FIR No.90 dated 06.08.2017, under Sections 406 and 498-A IPC, was registered at Police Station City-II, Abohar and trial qua the same is pending in the Court of Judicial Magistrate, Abohar.

In retaliation to the aforesaid case, the respondent-Ramesh Rohilla, who is father-in-law of the deceased-Neha, had filed a suit for damages in the Courts at Jhajjar, copy whereof is Annexure P-2. Looking at the age of applicant No.1 and the distance between Abohar and Jhajjar, a prayer has been made for transfer of the aforesaid suit from from Jhajjar, to the Court of competent jurisdiction at Abohar.

On the other hand, learned counsel for the respondent resisted the claim of the applicants and in the reply, he has given the detail of the number of opportunities, already availed by the applicants to lead evidence. Also, it is submitted that the suit was filed on 26.10.2017 and notice was issued on 02.12.2017. Subsequently, written statement was filed on 04.08.2018. The plaintiff evidence was closed on 22.10.2019. Thereafter, the applicants, who are the defendants in the said suit, were given as many as 32 opportunities to lead evidence and despite availing several opportunities, no evidence, as such, had been led. Rather, the present application has been filed, only with the purpose to delay the proceedings.

Also, along with the reply, the case history of the stages of the case aforesaid, which is sought to be transferred, has been annexed as



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Annexure R-1. In the given circumstances, it is submitted that since the case is at the fag end, there is no necessity to transfer the same. Moreover, also it is pointed out that brother of the deceased-Neha, namely, Piyush, who is applicant No.2 in the instant application, is an Advocate, practising in Abohar. Therefore, learned counsel for the respondent makes a prayer for dismissal of the transfer application.

In view of the submissions aforesaid, it is pertinent to mention that, as per Annexure R-1, the first date for evidence of the applicants/defendants was 13.12.2019 and since then, multiple opportunities have been availed. It is submitted by learned counsel for the applicants that it was during the corona period. Even otherwise, after the corona period also, several opportunities have been granted, as the case was fixed for the defendants' evidence for 02.01.2023, 06.02.2023, 20.03.2023, 17.04.2023, 15.05.2023, 24.07.2023, 07.08.2023, 23.08.2023, 18.12.2023 and 01.02.2024 and thereafter, the present application was filed. From the zimini orders, which are placed on record as Annexure R-2, it is evident that last opportunities were also granted by learned Trial Court, for leading defendants' evidence.

From the aforesaid, it is evident that the case is at the last stage and no evidence, as such, has been led, despite availing several opportunities. However, at this stage, learned counsel for the applicants has disclosed that two witnesses have been examined.

Though, convenience of the parties is to be taken into consideration, but however, some balancing moderation has to be done, looking into the interest of both the sides. Moreover, it is coming forth that the brother of the deceased-Neha, is practising Advocate in the Courts at



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Abohar. However, it is not appropriate for this Court to make further mention with regard to the said fact. However, taking into consideration the same, as well as considering the stage of the case, as aforesaid, no case is made out for allowing the present application.

Hence, the instant application is hereby dismissed.

However, it is made clear that the observations made aforesaid, are circumscribed, only for the purposes of disposal of the present application and shall not be taken into consideration, regarding any other pending litigation, between the parties to the lis.

06.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes