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

Sr. No.108

TA-156-2024

Date of Decision: 13.05.2025

HARSH SHARMA

....Applicant

Versus**AJAY PRASHAR**

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Vipin Kumar Sharma, Advocate for
Mr. Surinder Mohan Sharma, Advocate
for the applicant.

Dr. Pankaj Nanhera and Mr. Paramvir Singh Doon, Advocates
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-Harsh Sharma has filed the present application for seeking transfer of the civil suit i.e. CS/982/2023 titled '*Ajay Prashar Vs. Harsh Sharma*', filed by the respondent, which is pending before learned Additional Civil Judge (Senior Division), Ambala and he seeks transfer of the same to the Court of competent jurisdiction at SAS Nagar or any nearby station.

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



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The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the applicant, as well as the respondent have adjoining shops bearing No.7 and 8, in Palika Vihar, Ambala City. In between the said shops, there are joint stairs of 2' x 3', on the basis of the written agreement dated 29.11.1983, which was executed with the erstwhile owner of the shop, namely, Vinod Bansal. However, the dispute had arisen between the parties, on account of the usage of these joint stairs, as a result whereof, the respondent-Ajay Prashar, had filed the suit for seeking declaration and injunction, as well as for seeking partition of the joint stairs, copy whereof is Annexure P-2.

Further, it is pin-pointed by the counsel for the applicant that the respondent-Ajay Prashar, is posted as an Additional District & Sessions Judge, in Haryana and at the relevant time of filing of the suit, he was posted at Sonapat and presently, he is posted at Bhiwani. However, in the said suit, he had mentioned his post and place of posting, which was not called for. Besides the same, also the counsel has submitted that solely, on account of the respondent being judicial officer, the suit so filed, was proceeded by learned Trial Court, while giving very short adjournments. In this regard, the counsel has made reference to the zimini orders passed by learned Trial Court, copies whereof are Annexure P-3. In the light of the same, it is pointed out that in order to exert pressure upon the applicant and for show of strength, the respondent had got lodged an FIR bearing No.362 dated 16.06.2023, under Sections 427, 447 and 506 IPC, at Police Station Ambala City, District Ambala, copy whereof is Annexure P-5. It is also pin-pointed



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by the counsel that at the time of lodging of said FIR also, the respondent-Ajay Prashar, had asserted about his post, as well as the place of posting, while specifically mentioning the same in the FIR, which was also uncalled for.

Considering the aforesaid circumstances, it is submitted that undue pressure is exerted by the respondent, who is an Additional District & Sessions Judge in Haryana, to get a benefit, on the basis of the suit filed by him, while the same is being tried by the Civil Judge (Junior/Senior Division). As such, it is submitted by the counsel for the applicant that the said suit be transferred outside the jurisdiction of Haryana Courts, so that no influence of any kind is exerted by the respondent, upon the Court trying the suit.

On the other hand, the counsel for the respondent has refuted the claim of the applicant. In fact, while making reference to the reply filed, it is submitted that the case is proceeded, in accordance with law. Short dates were granted by the Court, solely on account of filing of stay application along with the plaint. Furthermore, it is submitted that a false FIR has been got registered, at the instance of the applicant, through his employee-Shivam, copy whereof is Annexure R-9. As such, the conduct of the applicant is unbecoming and the FIR has been got lodged, rather to put pressure upon the respondent, who is in judicial services.

In view of the rival submissions, at the very outset, it is pertinent to mention that there are various circumstances, which ought to be taken into consideration, while adjudicating on the transfer application. A copy of the suit, which is pending between the parties, is Annexure P-2. A



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perusal of the same, clearly reveals about the said suit having filed by Ajay Prashar, who is an Additional District & Sessions Judge, in Haryana Judicial Services. Further, perusal of the zimini orders, which are Annexure P-3, reveals that the suit was firstly taken up by learned Trial Court on 26.06.2023, during the vacation period and the notice was ordered to be served upon the applicant (defendant before learned Trial Court), for 28.06.2023. On 28.06.2023, the applicant/defendant had not made appearance and as such, he was proceeded against *ex parte* and the case was adjourned to 04.07.2023. On 04.07.2023, an application for setting aside of the *ex parte* proceedings was filed and the same was set aside, on the basis of the statement, made by the counsel for the respondent/plaintiff and the case was adjourned further for 10.07.2023. On 10.07.2023, no effective hearing had taken place, on account of flood like situation existing in the Court premises and the case was adjourned for 19.07.2023. On the next date also, no effective hearing had taken place, as joining time was availed by the presiding officer and the case was adjourned for 25.07.2023. On 25.07.2023, written statement and reply to the injunction application, was not filed and consequently, the case was adjourned for 31.07.2023, for this purpose. In fact, a perusal of the order dated 06.11.2023 reveals that written statement was not filed and last opportunity was granted to file written statement on 11.12.2023. Next order i.e. order dated 11.12.2023 reveals that written statement and reply to the stay application was filed, on that date.

Considering the aforesaid orders, it is evident that as per the requirement of law, since the stay application was required to be decided, within a period of one month, short adjournments given by learned Trial



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Court, *ipso facto* do not draw any inference of the judicial officer being under the influence of the respondent, who is a judicial officer of the rank of Additional District & Sessions Judge. In fact, the detail aforesaid of the manner of adjournments sought, reveals that it was basically on account of written statement and reply having not filed, at the instance of the applicant/defendant. In these circumstances, the manner of proceeding with the suit *ipso facto* do not given any reason to conclude about any undue influence excercised by the respondent.

Further, it is significant to mention that in the suit itself, there is a mention of the designation, as well as place of posting of the respondent, which is uncalled for. There was no necessity, as such, for the judicial officer to make mention of his post, as well as the place of posting. Even, the FIR got lodged at the instance of the respondent, copy whereof is Annexure P-5, he has specifically mentioned about his post, as well as place of posting, which was also uncalled for. This in itself, is a big factor, to be taken into consideration and which is bound to build an impression, on the part of the applicant/defendant, about an attempt made by the judicial officer to exercise influence, over the judicial officer trying the case in hand. As such, the impression gathered by the applicant is seemingly genuine fair. Anyhow, it is not observed by this Court that there is exercise of any influence by the respondent. However, the justice should not only be done, but, it should also appear to be done.

In view of the aforesaid fact situation and to rule out the fear in the mind of the applicant and also considering the other circumstances, as spelt out, for proper dispensation of justice, without any exercise of



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influence or to rule out any element of exercise of influence, the transfer application is allowed and the civil suit i.e. CS/982/2023 titled '*Ajay Prashar Vs. Harsh Sharma*', filed by the respondent, stands transferred from the Courts at Ambala, to the Court of competent jurisdiction at SAS Nagar. The requisite record of the aforesaid case be sent by Court concerned at Ambala, to the District and Sessions Judge, SAS Nagar.

Learned District and Sessions Judge, SAS Nagar, shall assign the said petition to the Court concerned at SAS Nagar. Even, the parties are directed to appear before the concerned Court at SAS Nagar, within a period of one month from today onwards.

13.05.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No