

TA-1076-2019 (O&M)

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

Sr. No.101

**TA-1076-2019 (O&M)
Date of Decision: 08.04.2025**

MANDEEP SINGH AND OTHERS

....Applicants

Versus

MOHINDER JIT KAUR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Puneet Sharma, Advocate
for the applicant.

Mr. Rakesh Kumar, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

CM-16568-CII-2024

The present application has been filed for placing on record the receipts, wherein details of the rent paid and the period since the same is due is mentioned, as Annexures A-11 and A-12.

In view of the averments made in the application, same is allowed and the requisite documents are taken on record.

Main case

The present application has been filed by the applicants, for



TA-1076-2019 (O&M)

seeking transfer of the ejectment petition i.e. Rent No.34 of 2019 (Annexure A-6), titled '*Mohinder Jit Kaur Vs. Mandeep Singh and others*', filed by the respondent, pending in the Courts at Kapurthala and the applicants seek transfer of the same to any other District of the State of Punjab.

Upon notice, the respondent made appearance through counsel and filed reply.

The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that initially, the father of applicants No.1 to 3, namely, Ravinder Singh, was tenant in the shop in dispute, since 1986. After his death, the applicants have inherited the tenancy. In the year 2006, both the parties have entered into an agreement. However, the respondent-landlady, had preferred an ejectment petition qua the then tenant i.e. Ravinder Singh, father of applicants No.1 to 3, on the ground of subletting and arrears of rent. The husband of the respondent-landlady i.e. Baljit Singh Bajwa, is an Advocate and also is a senior member of the District Bar, Kapurthala. Being enrolled in the District Bar, Kapurthala, he had a lot of influence over the local bar. Likewise, his brother, namely, Raghubir Pal Singh Bajwa, Advocate, had also been President of the District Bar Association, Kapurthala. In these circumstances, the father of applicants No.1 to 3, namely, Ravinder Singh, had preferred the transfer application i.e. TA-245-2008, on 21.07.2008, as he was unable to engage any counsel, to contest the petition. Reply was also filed to the said application and thereafter, the same was allowed vide order dated 10.12.2008, copy whereof is Annexure A-3.



TA-1076-2019 (O&M)

Further, it is submitted that in pursuance of transfer of the ejectment petition, the same was contested by the father of applicants No.1 to 3, at Jalandhar, as he was able to engage services of a competent counsel and ultimately, the ejectment petition as well as appeal was dismissed. This was possible, only on account of the father of applicants No.1 to 3, being able to effectively contest the ejectment petition, by availing his legal right. Also, it is submitted that other tenant i.e. Aman Walia, against whom also the ejectment petition was filed, was not able to seek justice, as he was unable to engage the counsel and ultimately, ejectment order was passed against him and he had to vacate the premises.

Also, the counsel for the applicants submits that now, the respondent-landlady has again preferred the ejectment petition, on the ground of arrears of rent and personal necessity. However, the applicants contacted various lawyers to defend the matter, but none of the lawyer consented to the same and they were not inclined to be engaged by the applicants. Consequently, the applicants are facing a lot of difficulty, on this account. As such, a prayer has been made for transfer of the ejectment petition, outside the jurisdiction of Kapurthala to any other district or place in the State of Punjab.

On the other hand, the counsel for the respondent has resisted the claim of the applicants. In fact, it is submitted that the respondent is an aged lady of 85 years and she is being harassed by the applicants. Under the compelling circumstances, she had been made to file the ejectment petition. The applicants are not paying the rent and do not pay heed to the request made to vacate the premises. Also, it is submitted that though, the husband



TA-1076-2019 (O&M)

of the respondent is a practising Advocate in District Kapurthala, but however, it is denied that he has a strong hold in the District Bar, Kapurthala. In fact, he is now 85 years old and is not even visiting the Court premises regularly, due to his old age. Even, it is submitted that on account of his old age, when he is not an active member of the Bar, it is not possible that he has a hold over the local bar, more particularly, when any child of the respondent has not entered the legal profession. Also, it is submitted that the applicants, if so desire, can very well engage the counsel from Jalandhar, which is at a mere distance of about 16-17 kilometres from Kapurthala.

Further, it is pointed out that the applicant had contested various other matters in the Courts at Kapurthala, against the respondent and he had engaged Mr. R.P. Goel, Advocate, in the ejectment petition, as well as in the appeal. As such, he can contest the proceedings in the Kapaurthala easily.

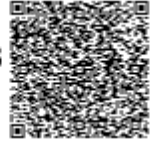
Considering the rival submissions made by the counsel for both the parties, it is necessary to pinpoint that the question of expediency would depend upon the facts and circumstances of each case, but the paramount consideration for the exercise of power, must be to meet the ends of justice. It is true that the Courts have a wide discretion to consider, whether it is expedient to meet the ends of justice, to transfer the case, as put-forth by the applicants. It is a settled principle of law that peculiar facts and circumstances of each case have to be examined, considered and appreciated. Sometimes, difference of one circumstance or additional fact, can make the world of difference, in exercise of power to transfer the case. Each case has to be appraised in its own factual background. Very true, as pointed out by the counsel for the applicants that earlier, the transfer



TA-1076-2019 (O&M)

application, thereby seeking transfer of the ejectment petition filed against Ravinder Singh, father of applicants No.1 to 3, was allowed by this Court. Copy of the transfer application is Annexure A-1. It reveals that the transfer application was filed in the year 2008. Copy of the order passed in the said application is Annexure A-3 and perusal of the same reveals that it was a consensual order passed, after the affidavit was filed by the respondent that she has no objection to the transfer of the ejectment petition.

In the light of the aforesaid, solely on account of the transfer application, earlier having accepted, when the ejectment petition was filed against the father of applicants No.1 to 3, one cannot gather that there are same circumstances existing, at present also. No doubt, the husband of the respondent is an Advocate and is a senior member of the local Bar at Kapurthala, but however, his having hold or not, has to be considered, more particularly, keeping in view his age at present. He is stated to be 85 years old, at present and none of the children of the respondent, is in legal profession. There is nothing coming on record about his brother, who may have at one point of time, remained President of Bar, about having hold over the local bar. Considering the same, there is definitely change of circumstances. As evident from the documents annexed along with the application, it is pertinent to mention that earlier also, when the ejectment petition against the father of applicants No.1 to 3, was transferred to Jalandhar, the applicants had contested the same on merits, while engaging the counsel from Jalandhar, which is at a distance of less than 20 kilometres from Kapurthala. Considering the same, it is not difficult for the applicants to still engage the counsel from Jalandhar, which is not at a much distance



TA-1076-2019 (O&M)

from Kapurthala, if they have any such apprehension of denial of justice, which to the mind of this Court, do not exist, more particularly, when the husband of the respondent is an aged person and cannot be gathered to be an active member of the Bar. Otherwise also, the applicants are already fighting other litigation, by engagement of the counsel from the local bar.

In view of the aforesaid fact situation, considering the change of circumstances, as existing on the earlier time i.e. about 16-17 years back and also in view of the peculiar facts and circumstances of the case, coupled with the reasons aforesaid, the submissions made, at the behest of the applicants, are bereft of merits.

Hence, the transfer application is hereby dismissed.

08.04.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No