



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

102

TA-1599-2022 (O&M)

Date of Decision: December 11, 2025

Rekha alias Rekha Kumari and others

...Applicants

Versus

Dinesh Kumar and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Munish Puri, Advocate
for the applicant.

None for the respondents.

ARCHANA PURI, J.

Applicants have filed the present application for seeking transfer of the civil suit filed by respondent No.1-Dinesh Kumar, bearing No.CS-1893-2022, titled 'Dinesh Kumar vs. Rekha and others', pending in the Courts at Gurdaspur and they seek transfer of the same to the Court of competent jurisdiction at Pathankot.

In pursuance of the notice issued, respondents did not make appearance and were proceeded against ex-parte.

Counsel for the applicants heard.

It is submitted by learned counsel for the applicant that marriage of applicant No.1 had taken place with Suresh Kumar s/o Baldev Raj. During his lifetime, out of love and affection, Baldev Raj had executed

a Will, in favour of his son Suresh Kumar. Unfortunately, Baldev Raj, father-in-law of applicant No.1 had died on 28.11.2021 and after about 25 days, Suresh Kumar, who was husband of applicant No.1, had also died. Soon thereafter, Dinesh Kumar, brother-in-law of applicant i.e. other son of Baldev Raj, had filed a civil suit for seeking partition by way of metes and bounds of the property of deceased Baldev Raj, which is situated in Kahnuwan, Tehsil and District Gurdaspur.

The applicant herself is residing in village Lanini, Pathankot and she is running a small shop to earn her livelihood. Also, it is submitted that her son is student of 10+2 class. Furthermore, it is submitted that even though, the daughter was stated to be studying in BCA, but now, she is married.

In the given circumstances, it is submitted that it is difficult for the applicant to cover a distance of 45 kms. to pursue the litigation, thrust upon her.

Though legislation confers comprehensive powers on the Courts to transfer the pending litigation, at any stage, either on an application by any party or suo motu, but however, it is well settled that, while exercising the said power, much care and circumspection is required to be there. Time and again, broad propositions are laid down by the Courts, as to what may constitute a ground to transfer. There are numerous circumstances, which are required to be taken into consideration. No cast iron formula can be adopted, which is applicable to all the situations. One differential/distinctive circumstance may change the decision of the transfer application. Each case has to be decided, in its own factual background. However, underlying consideration is that justice according to law should

prevail and to facilitate fair trial to one and all involved in the litigation. This aspect also has to be appraised, considering the factual position of each case.

In the case in hand, the dispute between the parties relates to the immoveable property, which allegedly was inherited by the applicant No.1 and her children, on the basis of the Will executed by Baldev Raj, in favour of his son Suresh Kumar, who was husband of applicant No.1 and unfortunately, he had also died. However, the distance between the two places is only 45 kms. and the route is well connected through rail and road. Even, applicant No.1 has daughter, who is already married and there is grown up son. There is no such reason coming forth, which hinders applicants from pursuing the litigation, more particularly, considering it to be a civil litigation, which does not call for the presence of the applicants, on each and every date of hearing. Otherwise also, the applicants always have an option to file an application for making appearance through virtual mode, which shall be considered, by the Court concerned, in the fitness of the circumstances.

But in any case, considering the aforesaid circumstances, the jurisdictional balance, as such, vis-a-vis, filing of the suit, cannot be disturbed. Hence, there is no merit in the transfer application and the same is hereby dismissed.

December 11, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No