



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

Sr. No.103

TA-874-2023

Date of Decision: 09.04.2026

NARINDER KUMAR JAIN

....Applicant

Versus

SATISH KUMAR JAIN AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Susheel Gautam, Advocate
for the applicant.

Mr. S.P.S. Aulakh, Advocate
for contesting respondent No.1.

Contesting respondents No.2 to 6 proceeded against *ex parte*
vide order dated 09.12.2024.

ARCHANA PURI, J. (Oral)

The applicant-Narinder Kumar Jain has filed the present application for seeking transfer of the civil suit i.e. i.e. CS/465/2017, titled '*Narinder Kumar Jain Vs. Satish Kumar Jain and others*', filed at his instance. The said suit is pending in the Courts at Faridkot and the applicant seeks transfer of the same to any Court of competent jurisdiction at Jalandhar, Kapurthala, Hoshiarpur, Amritsar, Tarn Taran etc.

In pursuance of notice issued, contesting respondent No.1 made appearance through counsel and filed reply. Even, rejoinder was filed. However, none had made appearance on behalf of contesting respondents No.2 to 6 and as such, they were proceeded against *ex parte*.

Counsel for the parties heard.



At the very outset, it is submitted by the counsel that the applicant, as well as respondent No.1 are the sons of Munshi Ram Jain, whereas, respondent No.2 is daughter of said Munshi Ram Jain. One of the sons of Munshi Ram Jain, namely, Rajinder Kumar Jain, had since expired. Respondents No.7 to 12 are legal heirs of Rajinder Kumar Jain, who were proceeded against *ex parte* and therefore, they have been impleaded in the present application as proforma respondents. Respondent No.6 is the son of the applicant. Respondents No.3 to 5 are the persons, to whom the share of the property in question has been sold by respondents No.7 to 12, being legal heirs of Rajinder Kumar Jain. However, in view of the Wills of Munshi Ram Jain and Rattan Devi, parents of the applicant, the property sold, is more than the share of the aforesaid respondents.

Further, it is averred that the applicant had filed the civil suit for partition of two joint properties at Faridkot. One civil suit i.e. CS/465/2017, titled '*Narinder Kumar Jain Vs. Satish Kumar Jain and others*', has been filed, qua the property registered in the name of Munshi Ram Jain, father of the applicant, who died intestate. In the said suit, respondents No.1 to 12 have been impleaded as party.

Also, counsel submits that, at the time of filing of the transfer application, Satish Kumar Jain-respondent No.1, was a practising Advocate, who had since died, during the pendency of the transfer application. The said Satish Kumar Jain, along with his brother, namely, Rajinder Kumar Jain, had prepared forged Will of the parents of the parties to the lis and had produced the same, along with the forged affidavit of the applicant, *vis-a-vis*, acceptance of the Wills.



Counsel submits that the applicant seeks transfer of CS/465/2017, as Satish Kumar Jain, during his lifetime, was Advocate by profession in the Bar of District Faridkot and he was also practising in the nearby places, like Moga, Sri Muktsar Sahib and various other District Courts, in the region of Malwa, along with his son-Peush Jain, who was practising with him. His another son-Abhinav Jain, was though, given by the applicant, in adoption to his brother-Rajinder Kumar Jain, but however, he is also practising in Punjab and Haryana High Court and District Courts of Chandigarh, Mohali, Patiala and other nearby districts.

Counsel also submits that the applicant had filed another civil suit i.e. CS/466/2017, titled '*Narinder Kumar Jain Vs. Satish Kumar Jain*' and the same is also pending in the Courts at Faridkot.

Furthermore, the counsel submits that Satish Kumar Jain and Peush Jain, were daily appearing as counsel in various other cases, before the same Court, in which the suit of the applicant is pending and they had challenged the applicant that they had the power to influence any Court, in the Malwa region and in any circumstance, the applicant will not be able to get any justice, order or judgment, against them. Therefore, the only option left is to withdraw the suits against them. Due to the influence of respondent No.1, as an Advocate, no other Advocate of the area is willing to appear in the suit, on behalf of the applicant, as respondent No.1 had been the past President of District Court Bar Association, Faridkot. Thereafter, his associate, Advocate Satinder Pal Singh Sandhu, remained President of the Bar. It was only on this account, that the applicant had to engage the service of Advocate from Jalandhar to contest the suit.



Also, it is submitted by the counsel that Satish Kumar Jain had also remained President of Jain Sabha (Jain community) and thus, he had influence over the prominent personalities of the region. Furthermore, the contesting respondents had also fabricated the Wills of the parents of the parties to the lis and in the given circumstances, it shall be difficult for the attesting witnesses to depose against the practising advocates of the area and as such, the influence will be exercised. Now, the applicant has an apprehension that he will not get justice, on account of unwanted interference, in the administration of justice, by the opposite party, on account of their extensive influence. Also further, counsel has made reference to the contents of the application and stated that the criminal cases have also been initiated against the respondents, solely, on account of their conduct, *vis-a-vis*, the forgery of the documents.

On the other hand, counsel for the contesting respondent No.1, while making reference to the reply, has refuted the claim for transfer of the civil suit. In fact, the counsel has submitted that the suit was instituted in the year 2017 and since then, it remained pending and the applicant was represented through Sh. Harpartap Singh, Advocate. The said counsel had appeared on behalf of the applicant since the initial stage, till 22.12.2023 and thereafter, Sh. Ajitpal Singh Bhangar, Advocate, had appeared on behalf of the applicant. As such, it is evident that the applicant is contesting the suit, while availing the services of advocate. Moreover, it is submitted that the applicant had grievance, during the lifetime of Satish Kumar Jain, who was a practising Advocate, at the relevant time. However, he has since died on



TA-874-2023

24.02.2025 and therefore, no cause of action survives for seeking transfer of the civil suit.

In fact, it has also been pointed out that Nitin Kumar Jain, son of the applicant, is also a practising Advocate at Jalandhar and the suit is well taken care of by him. He is practising not only at Jalandhar, but also, at Amritsar, Tarn Taran, Hoshiarpur and Kapurthala and for this reason only, desire has been expressed by the applicant for seeking transfer of the civil suit, at these places, as stated in the application.

Section 24 CPC confers comprehensive power upon the Courts, to transfer the suits, appeals or other proceedings, '*at any stage*', either on an application by any party or *suo motu*. However, it is well-settled that there is no cast iron formula, unanimously applicable to all the situations. One differential/distinctive circumstance, can change the decision of the transfer application. Therefore, it is all the more important for the Court concerned, while dealing with the transfer of the cases, to exercise this power with due care, caution and circumspection.

Off and on, broad propositions have been laid down by the Courts, as to what may constitute a ground for transfer. There are numerous circumstances and amongst them, the foremost to be relevant for the present application, is reasonable apprehension, in the mind of the litigant, that he might not get appropriate opportunity to present his case and have '*fair trial*' in the Court, in which the suit is pending, on account of exercise of influence by the rival party, who is/are advocate(s), thus being interested in the litigation.



Considering the aforesaid, at the very outset, it is pertinent to mention that if the Court feels that the litigant, who knocks the door of the Court, is not likely to have '*fair trial*' in the Court, from which, he seeks to transfer, it is not only the power, but the duty of the Court to pass such an order of transfer. However, the Court acting under Section 24 of the Code, may or may not, in its judicial discretion, transfer a particular case, in the backdrop of its own facts and circumstances. The underlying purpose is that the Courts must act '*judiciously*' in ordering a transfer on the application of a party. The power to transfer a case has to be exercised, with due care.

In the case in hand, there are advocates on both the sides. The son of the applicant, who is impleaded as respondent No.6 in the present case, is also an Advocate, though, practising at Jalandhar and respondent No.1, as well as his son-Peush Jain, are also advocates by profession and members of the Faridkot Bar. However, one has to take into consideration that simply on the score of the litigant, being a practising advocate, without anything more, would not itself constitute a valid ground for transfer of the case. There is no inhibition, on the part of the Court to accept the transfer application, wherein, the rival litigant is an advocate, but however, there ought to be circumstances, spelt out about the advocate/litigant to be overreaching and thereby, throwing his weight to such an extent, which causes bias or apprehension in the mind of the applicant, to such an extent, which hampers the '*fair trial*' or '*conducting*' of the judicial proceedings. Being an advocate, *ipso facto*, is not a ground for transfer of the case.

Thus, the paramount consideration is to see that justice, according to law, is done. Even, beneficial reference is made to



“Dr.Subramaniam Swamy vs. Ramakrishna Hegde”, 1990(1) SCC 4,

wherein, it was observed as herein given:-

“xxxx. But the paramount consideration must be to see that justice according to law is done, if for achieving that objective the transfer of the case is imperative, there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff. The petitioner's plea for the transfer of the case must be tested on this touchstone.”

Also, it is essential to make reference to the decision rendered by our own High Court in ***‘DAV College, Hoshiarpur Society (Regd.) and another Vs. D.M. Sharma and others’ 2005 (1) RCR (Civil) 71***, wherein, while dealing with the question that if the litigant is merely a practising Advocate, the Court observed as hereingiven:-

“XXXX XXXX XXXX XXXX

(6) Having heard learned counsel for the parties and perusing the record and judgment of this Court, I am of the considered view that this petition is liable to be dismissed because the principal argument raised by the learned counsel for the petitioner is untenable namely that if the litigation has been initiated by an Advocate or against the Advocate that alone would be a sufficient ground for seeking transfer of proceedings under Section 24 of the Code. This argument if accepted would have pernicious and deleterious effect on the administration of justice. In a given case there may be the possibility of establishing some relationship of a particular Advocate with the



Presiding Officer and the same may constitute a ground for transfer but merely because the litigant is a practising Advocate without anything more would not constitute a valid ground for transfer of the case. If such a principle is accepted, then all cases concerning members of the legal fraternity have to be contested at a place other than the one where the member of the Bar is practising. Such a general ostracism of legal fraternity is impermissible. The Judgments of this Court which have been cited by the learned counsel do not lay down any Rule of law warranting acceptance of the prayer made.”

Further, in ***Gurnam Singh and another Vs. Amandeep Singh and other***’ 2005(2) RCR (Civil) 314, it was further observed as herein:-

“XXX XXXX XXXX XXXXXX

It is thus obvious that no general proposition of law could be laid down that whenever a litigation is initiated by an Advocate or against an Advocate then the case is to be transferred from the local area where such an Advocate practices. If such a rule of law is laid down then all cases concerning members of the legal fraternity have to be decided and prosecuted at a place other than the one where the Member of the Bar is practising. It has been observed that such a general ostracism of legal fraternity is impermissible.”

Now, adverting to the case in hand, it is pertinent to mention that the suit, which is sought to be transferred, relates to the year 2017.

However, the application for seeking transfer, was filed in the year 2023 i.e.



TA-874-2023

after a period of six years of the institution of the suit. It is not disputed that the applicant was represented in the said civil suit by Sh. Harpartap Singh, Advocate, who appeared, at the initial stage, up to 22.12.2023. As mentioned, it was subsequent to filing of the transfer application, in the month of May, 2023, that new counsel had appeared on 22.12.2023. The applicant remained represented by the advocate, though, there was a change of counsel, at a belated stage. The applicant was earlier represented by the counsel, who was practising as Advocate in the Faridkot Bar. At that time, the applicant did not have any grievance and it was subsequently that the lawyer was changed, that too after filing of the transfer application.

No reason or instance, or any factor, has been specified by the applicant, which led to the apprehension in the mind of the applicant that he will not get justice. So far as, exercise of influence by the contesting respondents is concerned, much emphasis has been laid by the applicant, upon Satish Kumar Jain, to be President of the Faridkot Bar in past and further also, about his being the President of Jain Sabha. May it be so. Fact remains that said Satish Kumar Jain, is no more alive. Otherwise also, the allegations are quite vague. It is stated at the behest of the applicant that there was exercise of influence. However, nothing has been mentioned to substantiate, as to what made the applicant build such an impression, in his mind. There is also assertion made about the threat having been extended to the applicant, at the instance of the respondents. The same is also a very vague assertion. Nothing is mentioned, as to when and how, this threat was extended and whether any steps were initiated by the applicant, thereupon, in any manner.



Whatsoever may be the position of the litigant, either in the society, or in the Bar, the same cannot *ipso facto*, lead to the conclusion about the Courts leaning towards the member of the Bar, while adjudicating on the cases, more particularly, when no instance of any favourable order having passed, has been asserted in the application. Thus, the apprehension, now asserted, is seemingly not genuine. Otherwise also, no policy can be formulated, that whenever the litigation is initiated by an advocate, or against an advocate, then the case is to be transferred from the local area, where such advocate practises. In fact, if such a practice is followed, without any further sound material coming on record, to establish about the prejudice being caused, on account of the litigant, being a member of the Bar, or exercising influence over the Presiding Officer, on this account, then this will amount to punishing the person, solely, on account of vocation followed by him/her.

In view of the aforesaid fact situation and also, keeping in view the law laid down in D.M. Sharma's case (*supra*), such general ostracism of legal fraternity is impermissible. Considering the same, the transfer application is bereft of merits and consequently, the same is hereby **dismissed**.

09.04.2026
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No