
(2004) 09 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No. 2955-CII of 2004

D.A.V. College, Hoshiarpur Society (Regd.) and Another	APPELLANT
Vs	
D.M. Sharma and Others	RESPONDENT

Date of Decision : 13-09-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (2004) 138 PLR 578 : (2005) 1 RCR(Civil) 71

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : Sandeep Bansal, for the Appellant; C.M. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This order shall dispose of C.M. Nos. 2955-CII of 2004 and 3001-CII of 2004. Facts are being referred from the first petition.

2. This petition filed u/s 24 of the Code of Civil Procedure, 1908 (for brevity "the Code") prays for transfer of the suit filed by the plaintiff-petitioner namely Civil Suit No. 225 of 2003 from the Court of Civil Judge (Junior Division), Hoshiarpur to any other Court of competent jurisdiction outside Hoshiarpur. The petitioner who is an ex-MP in his capacity as President of the DAV, College, Hoshiarpur Society has filed the aforementioned civil suit seeking a declaration to the effect that the DAV Management Committee of DAV, College, Hoshiarpur Society headed by him as President is the legal, real and true Managing Committee. A further relief for perpetual prohibitory injunction by way of consequential relief restraining the respondents from holding them-selves out as the officer-bearers of the Managing Committee has also been prayed. Similar relief has been claimed against respondent No. 6.

3. Notice of the petition was issued and for the respondents, Mr. Chaman Lal Sharma has put in appearance. Arguments have been heard.

4. Mr. Sandeep Bansal, learned counsel for the petitioner has argued that

respondent No. 1 - Mr. D.M. Sharma is a an Advocate practicing in the Court at Hoshiarpur for thelast many years and, therefore, there is a possibility of influence of the afore-mentioned Advocate on the proceedings of the suit. According to the learned counsel, this will constitute sufficient ground for invoking Section 24 of the Code and transferring the suit to a Court outside District Hoshiarpur. In support of his submission, the learned counsel has placed reliance on two judgments of this Court in the cases of Yoginder Sarin v. Varinder Kumar Sarin¹ 1993(1) R.R.R. 492 Ved Parkash Sharma and Ors. v. N.N. Jain² 1992(1) C.L.R. 563 and argued that those cases were transferred merely on the ground that there was likelihood of the influence of the Advocate on the court proceedings once it is found that the concerned Advocate was practicing in the local Courts for over 25 years. The learned counsel has also argued that the Civil Judge has passed some illegal order against which Civil Revision in this Court had been filed and was allowed as is evident from order dated 15.1.2004 Annexure P-I passed in C.R. No. 219 of 2004.

5. Mr. Chaman Lal Sharma, learned counsel for the respondents has pointed out that Civil Revision No. 219 of 2004 filed by the petitioner has already been disposed of by directing the respondents to firstly file the written statement and then file an application for production of documents by the plaintiff-petitioner.

6. Having heard learned counsel for the parties and perusing the record and judgments 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 u/s 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 the 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 practicing 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 practicing. Such a general ostracism of legal fraternity is impermissible. The judgments of this Court which has been cited by the learned counsel do not lay down any Rule of law warranting acceptance of the prayer made.

7. The other argument that some illegal order was passed by the Civil Judge would also not constitute a ground for transfer because the remedy of revision or appeal at an appropriate stage is available to the petitioner. To err is human. Any officer may commit error, which is liable to be corrected at the appropriate forum. Therefore, there is no ground for interference in this petition. Dismissed subject to payment of Rs.5,000/- as costs.