



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

108

TA-1002-2025 (O&M)

Date of Decision: January 28, 2026

Jal Kaur through her LR Hamir Singh

...Applicant

Versus

Ajaib Singh Bahal @ Ajaib Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Damanjeet Singh Batalvi and
Mr.Sourabh Kaushik, Advocates
for the applicant.

Mr.Parit Aggarwal, Advocate
for the respondents.

ARCHANA PURI, J.

The present application has been filed by Jal Kaur w/o Sher Singh through her LR Hamir Singh, for seeking transfer of the civil suit No.86-2000 along with application No.CM-64-2025 and also civil suit No.1007-2000, pending before Civil Judge (Jr. Divn.) Jagraon, District Ludhiana and Hamir Singh seeks transfer of the same to the Court of competent jurisdiction at Malerkotla or to some other district.

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

Learned counsel for the parties heard.



At the very outset, it is submitted by learned counsel for the applicant that initially, Jal Kaur had civil suit No.86-2000 dated 02.05.2000 and the respondents had also filed civil suit No.1007 dated 05.12.2000. Both the suits were consolidated and decided by trial Court, Jagraon, vide judgment and decree dated 01.12.2008. To assail the aforesaid judgment and decree, Jal Kaur had filed two civil appeals No.34 and 35 dated 15.01.2009 and vide judgment and decree dated 14.09.2011, learned Addl. District Judge, Ludhiana, allowed both the appeals and remanded back the cases to trial Court, Jagraon, for disposal in accordance with provisions of law.

Also further, it is submitted that against the aforesaid judgment and decree, respondents had filed two SAO No.74 and 75 of 2011 before this Court. During the pendency of the same, Jal Kaur had died on 27.12.2014 and thereafter, Hamir Singh was impleaded as LR of Jal Kaur, on the basis of the Will dated 01.10.2014. Vide order dated 23.05.2019, this Court had dismissed both the appeals and directed the parties to appear before the trial Court, Jagraon, with a direction to the trial Court to decide both the suits expeditiously.

Also, it is submitted that two civil misc. applications No.117 and 932 were filed and the original file was ordered to be summoned. The files of both the civil suits were processed by the Civil Judge, Jagraon, wherein, respondents had put in appearance and with malafide intention, they did not disclose about Jal Kaur to have died and succeeded in obtaining judgment and decree dated 06.09.2019. Thereupon, Hamir Singh filed appeals No.856 and 855 of 2019 before learned District Judge, Ludhiana, who



dismissed the appeal No.855 of 2019 vide order dated 10.10.2014, while observing that remedy available with the applicant is to file an application under Order 22 Rule 9 CPC. Civil appeal No.856 of 2019 was allowed on 16.05.2025 and civil suit No.1007-2000 was remanded back to the trial Court, Jagraon.

Further, it is averred that application No.64 of 2025, titled 'Jal Kaur vs. Ajaib Singh Bahal and others' under Order 22 Rule 9 CPC was filed in civil suit No.86 of 2000 and civil suit No.1007-2000 titled 'Ajaib Singh vs. Jal Kaur' was remanded back and are now pending before the Courts at Jagraon.

In this background, it is further submitted by learned counsel for the applicant that respondent No.1 is a local advocate of Jagraon and due to his influence, the applicant is unable to secure legal assistance in Jagraon Court. In the light of the same, a prayer has been made for allowing the application and the transfer the requisite pending litigation pending between the parties to the Court of competent jurisdiction at Malerkotla or any other District.

On the contrary, learned counsel for respondents refuted the claim of the applicant. He submits that in fact, Hamir Singh, who himself claimed to be LR of Jal Kaur, had never been impleaded as LR of Jal Kaur before any Courts below. Also, it is submitted that there was never misrepresentation or material suppression of the fact, with regard to death of Jal Kaur, by the respondents. Counsel also reiterated about the pending litigation, which was allegedly not maintainable, at the instance of Hamir Singh.



In fact, counsel for the respondents submits that respondent No.1 is about 78 years of age and has not been in active practice, since many years, due to age related ailments. Also, it is pointed that till 2015, the case of Jal Kaur was contested by Sh.A.K.Attraya, one of the leading lawyers of Jagraon. No attempt, till date has been made by the applicant-Hamir Singh to be impleaded as legal representative of Jal Kaur. Simply on the score of respondent No.1 being an advocate, is no ground to allow the transfer application, as nothing beyond, about exercise of influence, as such, has been asserted.

To so substantiate his claim, about the transfer not to be effected, solely considering respondent No.1 to be an advocate, counsel has placed reliance upon *D.A.V. College Hoshiarpur Soccity (Regd.) and another vs. D.M.Sharma and others, 2005(1) RCR (Civil) 71* and *Gurnam Singh and another vs. Amandeep Singh and others, 2005(2) RCR (Civil) 314*.

In view of the aforesaid submissions, it is pertinent to mention that Section 24 CPC empowers the High Court or District Court to transfer any suit, appeal or other proceedings, pending before it or in any Court subordinate to it or to any other Court for trial or disposal. Though, this gives a comprehensive power to the Courts concerned, to transfer the cases, but it ought to be noticed that there is no cast iron formula of universal application to all the situations, wherein, transfer of the litigation is under consideration. One differential/distinctive circumstance can change the decision of the transfer application. In the light of the same, the Courts concerned are expected to exercise this power with due care and caution.



Though, time and again, broad propositions have been laid down by the Courts, as to what may constitute a ground for transfer, but however, each case has to be appreciated, in its factual background.

For the transfer of the litigation in hand, in the present case, the reason assigned is that respondent No.1 is an advocate, who exercises his influence, on which account, the applicant is unable to secure legal assistance in Jagraon. However, keeping in view the assertion, it is essential to note 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 make such an order of transfer. 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. However, while considering application for transfer, the underlying purpose is that the Courts must act ‘**judiciously**’ while ordering transfer on the application of the party. The power to transfer a case has to be exercised, with due care and caution.

In this regard, beneficial reference is made to ***D.A.V. College’s case (supra)***, wherein it was observed, as herein given:-

“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 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 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 aforesaid view was further substantiated in ***Gurnam Singh’s case (supra)***.

In the light of the aforesaid dictum, it should be noticed that there is no inhibition, on the part of the Courts to accept the transfer application, wherein, the rival litigant is an Advocate. However, while doing so, the Court ought to take into consideration about the conduct of litigant-advocate, as to whether, he is over-reaching or throwing his weight to such an extent, which causes bias/influence, upon the Court, to such an extent, which hampers the ‘**fair trial**’ or ‘**conducting**’ of the judicial proceedings. In any case, being an advocate, *ipso facto*, is not a ground for transfer of the case.

In the case in hand, the applicant perceives apprehension, as respondent No.1-Ajaib Singh Bahal, is an Advocate of Jagraon and due to his influence, the applicant is unable to secure legal assistance in Jagraon. This is the wide allegation of apprehension made. Nowhere, it is coming forth about the manner of exercise of influence by respondent No.1 and in



what manner, there was obstruction caused to the applicant, to secure legal assistance in Jagraon. It is pertinent to mention that Jal Kaur was represented by the counsel from the local Bar, in the litigation pursued by her, during her lifetime. The cases were decided and further the parties aggrieved, had filed appeals, which were disposed of by the Addl. District Judge, Ludhiana and the cases have been remanded back. It is only after the remand of the case, applicant-Hamir Singh is having objection to respondent No.1, on account of his being a local advocate in Jagraon. Though, it is stated that due to his influence, the applicant is unable to secure legal assistance, but however, making of wide allegations of apprehension alone, is not sufficient. There has to be some circumstance and material brought forth, to show about reasonable apprehension, but the same is not pin pointed.

Thus, it is a presumptuous assertion not supported by any genuine circumstance. Raising of such apprehension, without any substance is not acceptable. The applicant filing an application for seeking transfer has to pin point the circumstances, under which, he gathers impression that justice will not be done. He is not required to demonstrate that justice will inevitably fail. But, at the same time, he has to pin-point the circumstances, from which, an impression can be gathered by this Court that it is reasonable, in view of the facts and circumstances, pointed out to transfer the case, so as to remove the apprehension. In any case, raising of such allegations about the influence of the litigant-advocate, is not sufficient, more particularly, when the litigation is pending between the parties, since long and they were represented by the counsel from the local bar.



The judicial functioning cannot and should not be permitted to be stone-walled, either by the ordinary litigants or by the members of the Bar. The process of judicial delivery system, ought to run its even course, unbridled by any litigant, be it a private person or an advocate of the bar, where the litigation is pending. There has to be some substance in the apprehension raised, which is missing in the present case.

In the light of the aforesaid observations, as such, no case is made out for acceptance of the transfer application. Hence, the transfer application is hereby dismissed.

January 28, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No