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

CR-2491-2025

Date of decision: 28.04.2025

Harwinder Kaur and others

...Petitioners

Versus

Kuldeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Salathia, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 29.01.2025 (Annexure P-7) passed by the District Judge, Amritsar vide which the transfer application (Annexure P-5) filed by the respondent for transfer of two civil suits had been allowed.

2. Learned counsel for the petitioners has submitted that the petitioners had filed a civil suit in November, 2019 against the respondent for declaration to the effect that they are owners in possession and had challenged the Will dated 30.07.2010 which was propounded by the respondent and which was allegedly executed in his favour by his wife, who is sister of the plaintiffs. It is submitted that in the said civil suit, prior to the filing of the transfer application dated 10.10.2024, as many as five



witnesses had been examined in chief and examination-in-chief of one witness i.e., PW6 had also taken place subsequently on 03.12.2024. It is submitted that on the other hand, civil suit filed by the respondent is of the year 2022 and in the same, only PW1 had been examined in chief till the date the application for transfer was filed. It is argued that in the said circumstances, in case, the civil suits were to be ordered to be heard before one Court, then, the civil suit registered at Amritsar, which was filed subsequent in time, should have been transferred to the pending civil suit at Ajnala. It is submitted that the impugned order to the said extent be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper book.

4. It is not in dispute that in both the suits, the parties are the same and the primary issue is with respect to the Will dated 30.07.2010, which is being propounded by the respondent in the present case and which is sought to be challenged by the present petitioners. Both the cases are at the stage of plaintiff's evidence. The District Judge, Amritsar thus, by impugned order had rightly observed that both the cases deserve to be heard together. This Court is also of the opinion that since the issue with respect to the Will arises in both the cases, thus, in order to avoid contradictory finding, it is in the best interest of both the parties that both the matters are decided by the same Court.

5. With respect to the plea raised by learned counsel for the petitioners that it is the case at Amritsar which should have been transferred to Ajnala, it would be relevant to note that as has been fairly stated on



behalf of the petitioners before this Court, no such plea was raised by the petitioners either in the reply to the application under Section 24 CPC or in the review application. Further as is apparent from a perusal of reply (Annexure P-6) filed by the petitioners to the application filed under Section 24 CPC as well as review application (Annexure P-8), no plea had been taken to the effect that the case at Amritsar be transferred to Ajnala instead of vice-versa. The said plea is sought to be raised for the first time before this Court. Once both the cases are to be heard together, the question “*as to whether a case from “A” Court is to be transferred to “B” Court or from “B” Court to “A” Court*”, is a matter of discretion of the District Court. The party to the lis cannot choose the Court. Moreover, once the District Judge while passing the order dated 29.01.2025 had chosen to transfer the suit at Ajnala to the Court at Amritsar, this Court finds no ground to interfere with the said order while exercising its powers under Article 227 of the Constitution of India.

6. The Hon'ble Supreme Court in the case of *“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”*, reported as *(2010) 8 Supreme Court Cases 329*, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be



remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

7. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

28.04.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No