

RAJASTHAN HIGH COURT

Prem Kishan

Vs.

Bundu

Civil Revn. Petn. No. 593 of 2001

(H.N. Panwar, J.)

08.01.2002

ORDER

H. N. Panwar, J.

1. This revision petition under Section 115, C.P.C. is directed against the order dated 3-5-2001 passed by learned District Judge, Bhilwara, whereby he dismissed the application filed by plaintiff-petitioner under Section 24 of the Civil Procedure Code seeking transfer of Civil Suit No. 45/92 pending in the Court of Additional Civil Judge (Junior Division), *Bhilwara* to any other Court situated at Bhilwara.
2. The plaintiff-petitioner filed a suit in the Court of Civil Judge (Junior Division), *Bhilwara* for rent and ejection of the suit premises. During the pendency of the proceedings taken by the trial Court, the petitioner felt that the Presiding Officer of the trial Court is biased, which appears from the various order sheets of the case. The petitioner moved a transfer application seeking transfer of the case from the Court of Addl. Civil Judge (Junior Division), No. 1 *Bhilwara* to any other Court situated at Bhilwara. The learned District Judge vide order impugned, dismissed the petition seeking transfer of the case filed by the petitioner. Against the order of dismissal of the application seeking transfer of the case, the petitioner has filed the present revision petition.
3. I have heard the learned counsel for the petitioner. Perused the order impugned.
4. Although the suit filed by the petitioner is old enough as it was filed in the year 1983 but that cannot draw inference that the plaintiff himself wants to linger on or to delay the trial of the suit. The petitioner is seeking transfer of the case to any Court situated at *Bhilwara* and the respondents, who are already contesting the suit at

Bhilwara, cannot be said to be put to any inconvenience. If the petitioner has gathered the impression that the Presiding Officer of the trial Court is biased, which reflects from the various order sheets of the trial Court, then there cannot be any sound and justifiable reason for not transferring the case to any other Court situated at the very same place.

5. The learned District Judge on the application seeking transfer, sought comments from the Presiding Officer of the trial Court who submitted its comments wherein it is specifically mentioned as under :-

(Vernacular matter omitted Ed.)

6. Thus, from the comments submitted by the Presiding Officer of the trial Court, it also appears that he has exceeded his jurisdiction in commenting in the manner it has been commented. The apprehension of the petitioner that the Presiding Officer of the trial Court is biased, is well founded and gets more strengthen from the above comments submitted by him. Normally the trial Judge ought not to have any objection if the matter is transferred to any other Court.

7. Considering all the facts and circumstances of the case, in my considered opinion, the order of the learned District Judge suffers from illegality inasmuch as no valid reasons have been assigned for rejecting the transfer application.

8. Accordingly, this revision petition is allowed and the order impugned dated 3-5-2001 of the learned District Judge, *Bhilwara* is set aside. The learned District Judge, *Bhilwara* is directed to transfer Civil Misc. Case No. 45/92 from the Court of Additional Civil Judge (Junior Division) No. 1, *Bhilwara* to any other Court situated at *Bhilwara* with prior notice to the non-petitioner- defendants.

Petition allowed.