

IN THE HIGH COURT OF SINDH KARACHI  
Civil Revision Application No. 09 of 2014

Date	Order with signature of Judge
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1. For orders on office objection and reply of advocate as at "A" :
2. For orders on CMA No.585/2014 (Exemption) :
3. For Katcha Peshi :

05.03.2014 :

Applicant Mushtaq Ahmed and respondent Malik Ghulam Abbas,  
are present in person.

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**Nadeem Akhtar, J.** – The applicant has impugned the order passed on 16.01.2014 by the learned District Judge, Karachi South, whereby his Civil Transfer Application No.125 of 2013 was dismissed. The applicant had filed the said transfer application praying that Civil Suit No.697 of 2013 filed against him by the present respondent, be withdrawn from the Court of X<sup>th</sup> Senior Civil Judge, Karachi South, and be transferred to any other Court.

2. Mr. Fareed Hussain advocate files power on behalf of the applicant, which is taken on record. The ground on which the transfer application was filed by the applicant was that the applicant has lost trust in the presiding Judge of the trial court as he has connection with the principal of the school situated at Liaquat Ashraf Colony ; the said principal has assured the respondent that the presiding Judge will favour the respondent ; and, such fact has been disclosed by the respondent before many people.

3. Comments were called by the learned District Judge from the trial court, wherein the above allegations were denied, and it was stated that the trial court had no objection if the Suit is transferred to any other court. After hearing the parties, the applicant's transfer application was dismissed by the learned District Judge by holding that the allegations leveled by the applicant were without any substance. Learned counsel for the applicant reiterated the same grounds before me, and contended that the impugned order is bad in law.

4. In my humble opinion, the above grounds urged by the applicant have no force. The applicant has not placed any material on record that may indicate

that the learned trial court has acted in a partial or biased manner in proceeding with the Suit. It is to be noted that no material, procedural or other irregularity in the proceedings has been pointed out by the applicant, which shows that the Suit is being proceeded with in accordance with law. The allegations made by the applicant against the presiding Judge and the respondent are mere allegations without any basis or cogent reasons. It is now well-settled that a case should not be transferred from the court of competent jurisdiction unless the allegations / grounds seeking transfer of the case are supported by strong cogent reasons or convincing evidence.

5. It may be observed that in case a transfer application containing allegations against the presiding Judge is allowed, it would impliedly mean that such allegations against the presiding Judge have been deemed to be correct. Such a situation would certainly lower the image, dignity and honour of judiciary in the eyes of public at large. It is only because of this reason that withdrawal or transfer of a case from the Court proceeding therewith, is allowed only in exceptional circumstances where the grounds urged in support of withdrawal or transfer are supported by strong cogent reasons and evidence. If such practice is not followed strictly, the parties are likely to take undue advantage by filing applications for transfer of their cases on flimsy, frivolous and baseless grounds. While considering a transfer application, it must be kept in mind that the parties should not be allowed to pick and choose the court of their own choice or liking.

For the foregoing reasons, this revision application along with the listed application is dismissed in limine. It is, however, expected that the learned trial court shall decide the Suit strictly in accordance with law.

J U D G E