

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Transfer App. No. S - 01 of 2023

Civil Transfer App. No. S - 02 of 2023

Date of hearing	Order with signature of Judge
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Hearing of case (priority)

1. For orders on office objections at Flag-A
2. For hearing of main case

26.05.2023

Mr. Zaheer Ahmed Ujjan, Advocate for the applicants.
Mr. Zulfiqar Ali Arain, Advocate for private respondents.
Mr. Asfandyar Kharal, Assistant Advocate General.

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1. Both these Civil Transfer Applications are interconnected; hence, the same are decided by this common order.

2. Civil Transfer Application No. S-01 of 2023 has been filed for transfer of Civil Appeal No.156 of 2022 (*Re: Arbelo and others versus Mst. Ajab Khatoon (deceased) through her legal heirs and others*), while Civil Transfer Application No. S-02 of 2023 has been preferred seeking transfer of Civil Appeal No.130 of 2022 (*Re: Arbelo and others versus Mst. Ajab Khatoon (deceased) through her legal heirs and others*) from the Court of learned 3rd Additional District Judge Mirpur Mathelo to any other Court of District Ghotki having jurisdiction. One appeal is against the preliminary decree and the other is against the final decree passed in the same suit. Earlier, the applicants have approached the learned District Judge, Ghotki for the same relief by filing Civil Transfer Applications No.29 & 30 of 2022, which were dismissed vide separate orders dated 14.12.2022.

3. Heard the learned counsel for the parties and perused the material available on record.

4. The only ground so raised for transferring the aforesaid appeals is that the applicants have lost their faith upon the learned Presiding Officer (*3rd Additional District Judge, Mirpur Mathelo*). Surprisingly, perusal of the record shows that both the aforesaid cases are pending adjudication before the learned 1st Additional District Judge, Mirpur Mathelo instead of learned 3rd Additional District Judge, Sukkur. This fact is evident from the case diaries of the Appellate Court submitted by the learned counsel for the respondents through his statement dated 28.04.2023. In this state of affairs, this Court is unable to understand that how this blunder has been committed as the learned counsel for the applicants in these transfer applications as well as the transfer applications filed before the learned District Judge, Ghotki has sought transfer of the appeals from the Court of learned 3rd Additional District Judge, Mirpur Mathelo. The orders of the learned District Judge, Ghotki dated 14.12.2022 also reflect the same Court where, in fact, the cases are not pending. This position depicts that the applicants are not clear in their minds that which Presiding Officer is not faithful according to them. Even if this Court deems that it is a typographical mistake, this is not a cogent ground for transfer of the cases as losing of faith upon the learned Presiding Officer by the applicants is without any substance.

5. It may be observed here that transfer of case from one to another Court cannot be claimed by the applicant(s) as a matter of right or cannot be granted as a matter of routine and the Court before whom the application for transfer is moved has to see whether mistrust shown by the applicant is genuine or otherwise. Besides, while exercising jurisdiction to transfer cases from Courts, balance has to be struck in order to ensure that the cases are not transferred mainly on the basis of unfounded and conjectural apprehensions. It may also be observed here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the honourous, noble and

dignified duty they are performing and while deciding the cases they should not be allowed to be harassed unnecessarily by the litigants to mainly entertain groundless and baseless apprehensions.

6. For the foregoing facts and reasons, no case for transfer of the civil appeals is made out; hence, both the civil transfer applications in hand being devoid of any merits are **dismissed** along with pending application(s), if any, with no order as to costs.

Office is directed to place a signed copy of this order in the captioned connected matter.

Abdul Basit

JUDGE