

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CTA No.55 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on C.M.A. 2940/2022  
For orders on C.M.A. 2941/2022  
For hearing of main case

01.11.2023

Mr. Ghulam Sarwar Baloch advocate for applicant.  
Mr. Wali Muhammad Jamari, AAG.

The applicant resides in USA and has some family property dispute pending before Senior Civil Judge Sehwan. The physical absence of the applicant is manifest from the fact that even the present civil transfer application has been filed through attorney; on account of the applicant's absence from the country. Earlier Civil Transfer Application No.18/2022.was moved before the District Judge Jamshoro and the same was dismissed vide order dated 08.12.2022;the operative part is reproduced herein below:

7. *Heard arguments and perused the record, which reveals that there is no any allegation against learned Presiding Judge of the trial court. The only ground for transfer of Civil Suit is that the attorney of applicant is receiving threats from the Respondent No.1, in this regard, nothing has been produced that the Attorney of applicant has moved any application to the relevant forum of law for his grievance, even the comments of learned trial Judge are silent to this aspect of the matter, which shows that no such application regarding alleged conduct of Respondent No.1 has been filed before the trial Court. It is settled principle of law that the matter cannot be transferred on insufficient cause and invalid grounds, otherwise it would tend to frustrate and cause delay in lawful proceedings and would also cause inconvenience to the other party without any fault on its part. Therefore, this transfer application merits no consideration and same is dismissed, accordingly.*

The present proceedings challenges such findings and seek the relief denied thereto earlier.

Learned counsel did not controvert the narrative / observations recorded in the impugned order and remained unable to identify an infirmity therein. It could not be demonstrated that the earlier order could not have been rested on the rationale relied upon. The law<sup>1</sup> requires that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law.

During the course of arguments, the learned counsel leveled bald allegations against the presiding judge; notwithstanding the *admitted* fact that present application pre dated the occurrence alleged, hence, demonstrably alien to the pleadings herein. The allegations are mere unsubstantiated statements and the same cannot be made the basis to entertain or sustain the allegation of bias against a learned Judge. The concept impartiality or bias of a judge has been discussed exhaustively by the honorable Supreme Court in its judgment in the case of *Government of NWFP & Another vs. Dr. Hussain Ahmed Haroon & Others*, reported as

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<sup>1</sup> Per *Faqir Muhammad Khokhar J. in Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as PLD 2006 Supreme Court 1124; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as PLD 2013 Supreme Court 323.

2003 SCMR 104, and the present matter does not merit favorable consideration upon the anvil of the said judgment.

In view of the foregoing, instant civil family transfer application is dismissed along with pending applications.

Judge

Ali Haider