

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

## Civil Transfer App. No. S – 34 of 2024

*(Mian Muhammad Arif Samejo v. Mehboob Ali Kophar & others)*

## Civil Transfer App. No. S – 36 of 2024

*(Mian Muhammad Arif Samejo v. Mehboob Ali Kobhar)*

Date of hearing : 18.11.2024

Date of decision : 18.11.2024

Mr. Shabbir Ali Bozdar, Advocate for applicant.

### ORDER

**Zulfiqar Ahmad Khan, J.** – By this common order, I intend to decide both the captioned transfer applications, filed by applicant, through which two separate orders of even date i.e. 29.10.2024, passed by learned District Judge, Ghotki have been impugned, and the transfer of Civil Appeals No.112 and 113 of 2024, filed by respondent No.1, from the Court of learned Additional District Judge, Daharki to any other Court having jurisdiction has been sought.

2. In Civil Transfer Application No. S-34 of 2024, it is stated that the applicant had filed a suit for specific performance of contract and permanent injunction, while respondent No.1 had filed a suit (F.C. Suit No.35 of 2022) for the cancellation of the agreement and permanent injunction. Similarly, in Civil Transfer Application No. S-36 of 2024, it is claimed that the applicant had filed a suit (F.C. Suit No.13 of 2020) for specific performance of contract and permanent injunction, while the respondent had filed a suit for cancellation of the agreement and permanent injunction. Both sets of suits were separately consolidated and adjudicated by the learned Senior Civil Judge, Daharki, who passed judgments and decrees on 10.05.2024, decreeing the applicant's suits and dismissing the respondent's suits. In response, respondent No.1 filed Civil

Appeals No.112 and 113 of 2024 before the learned District Judge, Ghotki, who entrusted the matters to the learned Additional District Judge, Daharki, where the appeals are currently pending. In the meantime, applicant filed two Civil Transfer Applications bearing No.37 and 38 of 2024, which were dismissed by the learned District Judge, Ghotki through orders dated 29.10.2024.

3. Learned Counsel for the applicant has submitted that from the very outset of the appeals, the attitude of the learned Presiding Officer has been excessively harsh towards the applicant. It is further alleged that the respondent openly stated that the learned Presiding Officer would rule in his favour, leading the applicant to lose confidence in the fairness of the proceedings.

4. The orders of the learned District Judge, Ghotki, dismissing the earlier transfer applications of the applicant, reveal that the applicant filed multiple adjournment applications during the proceedings of Civil Appeals No.112 and 113 of 2024, and no hearings took place in presence of the applicant or his Counsel due to various adjournments and a strike of bar. The transfer application was filed without specifying any clear instance of misconduct by learned Additional District Judge, Daharki. The allegations made are vague and baseless, and the applicant has failed to provide any concrete evidence. Both parties reside in the same locality, and the appeal is being heard in a Court with jurisdiction over the matter.

5. The discrepancy between the applicant's claims and the case diary is notable. The applicant alleges that on 30.10.2024, upon expressing his intention to file a transfer application before this Court, the learned Presiding Officer became angry, called the police, and handed him over to them, refusing to accept the adjournment application. However, the case diary dated 30.10.2024, submitted by the applicant, presents a different version of events. It reflects that Advocate Mr. Waseem Shah appeared

and submitted his *vakalatnama* on behalf of respondent No.1, along with an adjournment application, which was granted with the caveat that it would be the last and final chance.

6. This shows that the applicant's version, which suggests a confrontation and mistreatment by the learned Presiding Officer, is unsupported by the official record. The case diary provides a clear and neutral account of the proceedings, which does not align with the applicant's claims of anger or police involvement. Moreover, the fact that the adjournment was granted "subject to last and final chance" is due to the applicant repeatedly seeking adjournments, as noted by the learned District Judge, Ghotki, in his orders referred above. If the applicant failed to actively engage in the proceedings, it is not a result of any misconduct or unfair treatment by the learned Appellate Court, but rather a reflection of the applicant's own inaction or delay in pursuing the case. Therefore, the applicant's allegations do not hold weight when compared to the official record.

7. The allegations raised by the applicant regarding the learned Presiding Officer's attitude being excessively harsh from the outset of the appeals lack substantive evidence to support such claims. Mere assertions of harshness or unfavorable behavior do not constitute sufficient grounds for doubting the impartiality or fairness of the Court. Judicial officers are trained professionals tasked with making decisions based on the law and evidence presented, and their conduct should not be lightly questioned without credible proof.

8. Further, the claim that the respondent openly stated that the learned Presiding Officer would rule in his favour is speculative and unsupported by any concrete evidence. Allegations of bias or favoritism must be substantiated with clear and convincing facts, not merely speculative statements. Without written or recorded evidence of such a

declaration, it remains a vague accusation that does not hold weight in a legal context.

9. The mere belief or subjective feeling of the applicant that the proceedings are unfair does not, in itself, justify a transfer or disqualification of the Presiding Officer. Courts are bound by the principle of fairness and justice, and unless there is direct evidence of bias or a conflict of interest, the applicant's concerns about the Presiding Officer's alleged harsh attitude and the respondent's statements remain baseless and devoid of merit. Therefore, these points cannot be considered valid grounds for challenging the fairness of the trial or the impartiality of the learned Presiding Officer.

10. In the circumstances at hand, these applications for transfer seem to be meritless and are accordingly **dismissed in *limine*** along with pending application(s). The trial Court is, however, directed to proceed with the cases ensuring adherence to the principles of natural justice and fair opportunities of hearing.

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

J U D G E

Abdul Basit