

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Civil Revision Application No.S-111 of 2025

Applicant: Pirshotam S/o Narain Das Khatri,
Through Mr. Mohan Lal K. Rathore,
Advocate.

Respondent: Shrimati Seeta Wd/o Essar Das.

Date of Hearing: 02.12.2025.

Date of Order: 02.12.2025.

ORDER

Shamsuddin Abbasi, J: Through this Civil Revision Application, the applicant seeks transfer of the Execution Application No.08/2021 in F.C Suit No.11/2018 pending before the learned Senior Civil Judge-I, Umerkot, to any other Court of District Umerkot.

2. Per learned counsel, decree holder Sht. Seeta expired on 28.06.2021 and consequently the power of attorney executed in favour of her step-son namely Tikam Das lost its validity upon her death. He further submits that despite the death of the decree holder the said attorney is unlawfully pursuing the execution proceedings though he has no authority in law to do so and that the attorney failed to implead the legal heirs of deceased Sht. Seeta. Learned counsel further submits that various proceedings initiated by the attorney for obtaining succession certificate and Letters of Administration were dismissed on merits including (a) application before NADRA (b) complaint before Federal Ombudsman (c) Civil Suit No.871/2022 before the Senior Civil Judge, South Karachi and (d) SMA No.269/2023 before the Vs. Additional District Judge South Karachi.

3. Heard and perused.

4. In terms of order dated 21.11.2025, the learned counsel for the applicant was directed to satisfy this court about the maintainability of the instant Civil Revision Application on the ground that case is fixed for announcement of order on the execution application. Today he has produced CTC of diary of execution application No.08/2021, memo of F.C Suit No.871/2022, photocopy of Succession Application No.269/2023, memo of Misc. Appeal No.37/2024 and photocopy of Power of Attorney.

5. I have gone through the impugned order and relevant portion of the said order is reproduced as under:

“I have carefully heard both the parties in person and perused the material available on record. It is the matter of record that applicant filed Civil Transfer Application No. 02 of 2011 “Purshutam S/o Narain Das Versus Shet. Seeta W/o Essar Das” before this Court, which was dismissed on merits vide order dated 08.09.2011. More so, applicant also filed an application U/S: 12 (2) CPC in 2nd Appeal No. S-64 of 2024 before Honourable High Court of Sindh, Circuit Court Mirpurkhas which was also dismissed vide order dated 20.03.2025. More so, following have been recognized as grounds for transfer:-

Pecuniary or personal interest of the presiding officer (a)
 Personal knowledge of the presiding officer (b)
 Relationship of presiding officer with a party (c)
 The judge having earlier decided a similar matter (d)
 The judge having made remarks against a party (e)
 The judge having expressed an opinion regarding the case (f).

The judge having discussed the case with a party (g).
 The judge having already decided a case on the basis of the same evidence

(h).

The judge having expressed an opinion regarding the evidence (i).

Importance and difficulty of the questions involved in the suit (j).

Where interests of justice require a transfer (k).

Desirability of consolidating suits (l), or appeals (la).

The case involves questions of general importance (m).

The suit involves important constitutional issues (n).

When the judge is personally interested (o).

Party being influential in town (p).

Interests of an unattached pardah observing lady being involved (pa).

To avoid conflicting judgments by different courts (pb).

For convenience of parties and witnesses (pc).

Where the defendant is a superior of the trial judge (pd).

Appellate Court Judge having decided the suit himself as a trial court judge (pe).

Perusal of Civil Transfer Application in hand reveals that the applicant has not referred from a single cogent ground mentioned above, for transfer of Execution Application from the learned trial Court to any other Court. The grounds stated in the application do not disclose any material irregularity, bias, or reasonable apprehension of prejudice attributable to the learned Presiding Officer. Mere dissatisfaction with interlocutory orders or adverse proceedings does not constitute a valid basis for transfer of a case. Alleged defects in representation of the decree holder or non-substitution of legal heirs are the legal issues to be determined by the executing Court itself, in accordance with law, did not furnish a ground for transfer. Furthermore, no specific instance of misconduct, partiality, or lack of fairness on the part of the learned 1st Senior Civil Judge has been demonstrated. The applicant's assertions remain unsubstantiated and fall short of the legal threshold required for transfer under Section 24, C.P.C.

For the above discussion reliance is placed on a case law reported in 2013 YLR 70 "MUHAMMAD YASEEN Versus ABID HUSSAIN and 29 others", wherein it has been held as under:-
"Civil Procedure Code (V of 1908)-----S. 24---Transfer of execution petition---Petitioner's application for transfer was dismissed by District Judge---No valid ground had been shown to the High Court to have another view in the matter than the one expressed by the District Judge---No case for interference having been made out, revision was dismissed with the direction that the objection petition of the petitioner, if possible, may be decided first and expeditiously by the Trial Court".

It is a settled law now that transfer of a case cannot be ordered lightly, and must be justified by real apprehension of miscarriage of justice. In the instant case, no such apprehension has been shown. The grounds pressed are insufficient and fall short of the standard required"

6. Learned counsel for the applicant has failed to point out any illegality or irregularity in the impugned order, which has been passed in accordance with law. He has also failed to point out any act of Presiding Officer which prejudices the case of the parties. No case for interference is made out, therefore, the instant Civil Revision Application stands **dismissed** alongwith pending application.

JUDGE