

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Civil Transfer Application No.57 of 2026

Date Order with Signature(s) of Judge(s)

- 1.For hearing of main case.
- 2.For hearing of C.M.A. No.5701/2026.

15.09.2026

Mr. Ghulam Murtaza, Advocate for the applicant.

Mr. Moulvi Iqbal Haider, Advocate files Vakalatnama on behalf of the respondent, which is taken on record.

Through the instant Civil Transfer Application, the applicant/plaintiff seeks withdrawal of Family Suit No.1951/2024 from the Court of XXIII Family Judge, Karachi-West (**“Trial Court”**) and its transfer to any other competent Family Court.

Learned counsel for the applicant contends that the Trial Court frequently granted adjournments to the respondent/defendant, including four “last and final chances,” whereas, on 25.05.2026, the applicant’s first request for a short adjournment resulted in adverse remarks against him and imposing of cost of Rs.30,000/-; that on the said day, the Presiding Officer invited the respondent to suggest as to what penalty should be imposed upon the applicant, then he determined the said amount as per her suggestion, which has created an apprehension on the mind of the applicant regarding the independent Judicial discretion; that the applicant’s subsequent application seeking modification and expunction of adverse remarks was also dismissed by the Presiding Officer, vide order dated 21.07.2026, without an effective opportunity of hearing or proper consideration of the supporting material; that these incidents, when viewed collectively, give rise to a sound alarm that the proceedings may not be conducted with the required impartiality and

even-handedness; that the applicant has otherwise cooperated with the proceedings for almost one and a half years and he is willing to proceed expeditiously before another competent Court; that transfer would not affect the respondent's substantive or procedural rights, as the proceedings already conducted can remain intact and the case can continue from its present stage.

On the other hand, learned counsel for the respondent maintains that no reasonable ground has been disclosed by the learned counsel for the applicant for the transfer of the subject case and the apprehension of the applicant regarding not getting fair justice is baseless; that the respondent was ordered to pay costs on two occasions by the same Presiding Officer.

Heard, record perused.

The main grievance agitated by the learned counsel for the applicant is that on 25.05.2026 he filed an application for adjournment; however, the Presiding Officer passed the order of imposing cost upon him. For the sake of brevity, order dated 25.05.2026 is reproduced as under:

“Case called. Both parties and their advocates are present. Today matter fixed for cross of defendant & her witnesses. One witness namely Umair is present. Defendant submit cost of Rs.10,000/- and same received by the plaintiff. Plaintiff filed application for adjournment. Detail order passed on application. It is observed that the matter was fixed on cross of the defendant & her witnesses but the learned counsel for the plaintiff failed to attend the court & cross examining the defendant & her witnesses despite of their attendance. Both parties were directed to proceed the matter without failure. Despite of strict directions of the court Plaintiff failed to bring his counsel for cross examination. Therefore, due to delay tactics & bad behavior of the plaintiff in person before this court, the penalty of Rs.30,000/- is imposed upon him. Plaintiff in person is directed to remain in ethics before this court, in case of failure the court shall pass strict orders against him in contempt of court. Plaintiff is further directed to pay penalty on next date of hearing first & then he shall be permitted to cross examine the defendant & her witnesses through his learned counsel. In case of failure the side of the defendant will be closed due to failure of plaintiff to cross examine. Case put-up to 21-07-2026 for cross of defendant & her witnesses at sharp 11:30 A.M. + cost. Witness namely Muhammad Amanatullah Khan appear”.

From perusal of the aforementioned order, there appears no impartiality of the Presiding Officer or bias as nothing such has been observed by the Trial Court. It is an admitted position that on seeking adjournments, the respondent was twice ordered to pay costs; which shows that the Presiding Officer is conducting proceedings of the case even-handedly.

It may be observed that orders allegedly wrong in law or improperly passed against the party seeking transfer of the case, cannot be accepted as a valid basis for transfer of the case unless the circumstances attending the passing of such order are capable of raising a reasonable apprehension in the mind of a party that justice would not be done to him. Something more than a mere wrong order is required to justify such transfer so as to create a reasonable apprehension in the mind of the party concerned of not getting a fair and impartial trial.

It may further be observed that the transfer of cases cannot be permitted on flimsy grounds as such transfer would shake confidence which is necessarily to be reposed in the Presiding Officer. Where unjustified allegations are made against the Presiding Officer and absolutely no ground for transfer is made out, the order refusing transfer is justified. The ground taken by the applicant in the instant Civil Transfer Application appears to be vague and baseless; hence, the same is dismissed alongwith the listed application, with no order as to costs. However, the Trial Court is directed to proceed with the matter expeditiously and decide the same preferably within a period of two months hereof, in accordance with law.

CHIEF JUSTICE