

**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

R.A No.310 of 2024

[Ghulam Abbas Sangi vs. Mst. Salma Hussain]

R.A No.312 of 2024

[Ghulam Abbas Sangi vs. Mst. Salma Hussain]

R.A No.313 of 2024

[Ghulam Abbas Sangi vs. Tarique Hussain]

Date	Order with signature of the Judge(s)
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Applicant : Through Mr. Tahir Nisar Rajput advocate

Respondent: Through Mr. Irfan Ahmed Qureshi advocate

Date of hearing: 24.01.2025

Date of Decision: 24.01.2025

ORDER

ARBAB ALI HAKRO,J:- The applicant has filed the aforementioned Revision Applications under Section 115 C.P.C. These applications challenge three Orders dated 23.11.2024, passed by the learned District Judge in Transfer Applications No.126 and 128 of 2024, filed by the Respondent, and on a reference forwarded by Senior Civil Judge-VIII/Rent Controller, Hyderabad. The learned District Judge, while allowing both Transfer Applications, withdrew F.C. Suit No.343/2024 and Execution Application No.30/2024 in Rent Application No.176/2022 from the Court of V-Senior Civil Judge, Hyderabad, and transferred them to the Court of VIII-Senior Civil Judge, Hyderabad, as the parties and property involved in both matters were the same. Consequently, the learned District Judge declined the Reference, which had become infructuous. Therefore, for convenience and efficiency, all these Revision Applications are proposed to be adjudicated collectively through a single order.

2. The progress report was called from the learned trial Judge, who submitted it through his letter dated 23.01.2025. According to the report, the R & Ps of Rent Execution Application No. 30 of 2024 were transferred to the Court of the V-Senior Civil Judge, Hyderabad by an Order dated 05.11.2024, passed by the District Judge, Hyderabad in Civil Transfer Application No. 118/2024. Consequently, the trial Judge referred Rent Application No. 176/2022 to the learned District Judge, Hyderabad, due

to a pending application under Section 12(2) C.P.C. The report further indicates that the R & Ps of Rent Execution Application No. 30/2024 were subsequently returned to his Court by orders from the District Judge, Hyderabad, in Transfer Application No. 128/2024. Additionally, he received the R & Ps of F.C. Suit No. 343/2024, filed by Ghulam Abbas Sangi (the Petitioner). The report also states that the execution application is fixed for hearing an application under Order XXI Rules 26 and 29 r/w Section 151 C.P.C., the Rent Application No. 176/2022 is set for a hearing on the application under Section 12(2) C.P.C., and F.C. Suit No. 343/2024 is scheduled for issue framing.

3. I have carefully considered the submissions made by the learned counsel representing the applicant and the learned counsel representing the Respondent and meticulously perused the record, including the impugned Orders. The principal contention advanced by the learned counsel for the applicant is that Mst.Salma was not a party to the Rent Application, which was instituted by her husband, Tarique Hussain, who represented himself as the landlord. Therefore, the learned counsel argues, it was erroneous for Mst.Salma filed a transfer application for the transfer of the Rent Execution Application, which was subsequently entertained and allowed by the learned District Judge without proper legal basis. In opposition, the learned counsel for the Respondent contends that the property in question, the subject of the rent application, is originally owned by Mst.Salma, whereas Tarique Hussain acted as her husband and attorney, initiated the proceedings on her behalf. Upon inquiry by this Court, the learned counsel for the applicant did not present any substantial ground other than alleging bias on the part of the trial Judge.

4. It is an admitted fact that both the rent application and the rent execution application were initiated by Tarique Hussain. Additionally, it is undisputed that the property involved in the rent proceedings is originally owned by Mst.Salma and Tarique Hussain, her husband, inadvertently acted as her attorney in the transfer application filed for the transfer of Rent Execution Application. In my view, this represents a mere technicality or a typographical error rather than a substantive legal issue. Tarique Hussain filed the transfer applications, executed affidavits, and signed the Vakalatnama. Therefore, his erroneous representation as the attorney of Mst.Salma, in the rent application, cannot render the

impugned Orders illegal or unlawful. A literal interpretation of the procedural technicalities should not override the factual ownership and the underlying intent of the parties involved. The Respondent's position is fortified by the fact that the property ownership and the attorney relationship between Mst.Salma and Tarique Hussain were established and substantiated in the record. The learned counsel for the Petitioner has failed to demonstrate any substantive, procedural impropriety or miscarriage of justice that would warrant the annulment of the impugned Orders.

5. The allegation of bias by the trial Judge, unsubstantiated by concrete evidence, does not suffice to challenge the impartiality and the judiciousness of the lower Court's decisions. Judicial propriety demands that alleged bias be supported by demonstrable facts rather than mere assertions. The matter of procedural irregularity, as argued by the learned counsel for the applicant, does not hold substantive ground as the core issue pertains to the rightful administration of justice and proper representation of the parties involved. The error in representation was an understandable oversight and did not vitiate the legal processes or the rights of the parties involved.

6. Upon a meticulous perusal of the provisions enshrined in Section 24 C.P.C, it becomes manifest that the District Courts and the High Court are vested with the plenary authority to transfer, withdraw, and retransfer pending suits, appeals, or other proceedings at any juncture, whether suo moto or upon the behest of an application by a party. Nonetheless, a scrupulous examination of the entirety of Section 24 C.P.C. unveils that the legislature, in its sagacity, has refrained from enunciating specific grounds or enumerating instances that could form the predicate for soliciting the transfer of a case from one Court to another. However, the Superior Courts, through their jurisprudential pronouncements on the subject, have elucidated specific principles and enumerated various grounds under which the provisions of Section 24, C.P.C. can be invoked. The powers vested in a Court pursuant to Section 24, C.P.C., are to be exercised due to the overarching principles governing the administration of justice.

7. In the instant case, there appears to be no specific allegation against the trial Judge; rather, the applicant has expressed apprehension of not receiving justice on the ground of alleged bias by the learned trial Judge.

There is no logical basis for such apprehension, as the assertions of bias are mere conjecture by the applicant without any concrete proof or evidence. Consequently, this ground of apprehension is both misconceived and untenable in law.

8. In light of the aforementioned reasons, Revision Applications are hereby **dismissed** along with all listed/pending miscellaneous applications.

Consequently, impugned Orders are upheld.

JUDGE

Sajjad Ali Jessar