

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Transfer App. No. S – 02 of 2025

(*Dawood Ahmed Bhutto v. M. Khalid Saleem & another*)

Date of hearing : 20.03.2025

Date of decision : 20.03.2025

Mr. Achar Khan Gabol, Advocate for applicant.
Mr. Shahryar Imdad Awan, Assistant Advocate General Sindh.

ORDER

Zulfiqar Ahmad Khan, J. – This application has been filed by the applicant seeking transfer of F. C. Suit No.94 of 2024 (*Re: Dawood Ahmed Bhutto versus M. Khalid Saleem and another*) from the Court of learned Senior Civil Judge, Mirpur Mathelo to any other competent Court in District Ghotki.

2. Learned Counsel for the applicant has contended that the applicant has lost faith upon the learned Senior Civil Judge due to various concerns, including the earlier rejection of the plaint under Order VII Rule 11, CPC. However, in appeal, the matter was remanded back to the trial Court for deciding it on merits after framing issues and leading evidence by the parties. He has further contended that despite the appellate Court's overruling the maintainability issue, the trial Court once again directed the applicant to satisfy the same issue, raising concerns about the impartiality of the learned Judge. He has lastly submitted that the applicant fears an unjust outcome and seeks transfer of the case to another Court. He has placed reliance upon the case reported as **2004 CLC 1244** and **2012 CLD 6**.

3. On the other hand, learned AAG Sindh has opposed the application, contending that the applicant is unnecessarily prolonging the matter and that no concrete evidence has been presented to demonstrate any bias or partiality on the part of learned Judge. He has further submitted that without any substantial proof against the learned Judge, the request of transferring the case is unfounded and should be dismissed.

4. Before filing this application, the applicant has also preferred a like nature application (Civil Transfer Application No.39 of 2024) before the learned District Judge, Ghotki, which has been dismissed by him through a well-reasoned order dated 08.01.2025. Relevant portion of that order is reproduced below:

“A perusal of case file shows that, applicant had filed F.C Suit No.31/2021 for damages against respondents before court of learned Senior Civil Judge, Mirpur Mathelo. Its plaint was rejected U/O VII Rule 11 CPC on point of its maintainability. In Civil Appeal, matter was remanded back to trial court for deciding it on merits. His suit was renumbered as F.C Suit No.94/2023. Then applicant/plaintiff filed Transfer Application against the then Senior Civil Judge, Mirpur Mathelo (Mr. Anees-ur-Rehman Buriro), which was allowed and case was transferred to the court of learned Senior Civil Judge, Ghotki. After that, on administrative ground, so many cases including Applicant’s F.C Suit No.94/2023 was transferred to same court of learned Senior Civil Judge, Mirpur Mathelo, on point of territorial jurisdiction, where new Senior Civil Judge, has recently been posted. Applicant has again moved Transfer Application, solely on the ground that, behaviour of learned Senior Civil Judge, towards him is not good. When confronted, applicant Dawood Ahmed Bhutto, a public servant, admits that, after transfer of the case, he has not engaged his learned counsel and court is asking him for satisfaction over maintainability of the suit. It is surprising that, for instant transfer application, applicant engages a senior counsel but for proceedings the case he does not engage learned counsel before trial court. I do not find substance in Transfer Application in hand, therefore, it is dismissed.”

It is pertinent to mention here that earlier plaint in applicant’s suit was rejected on point of maintainability. In appeal same was remanded back to trial court for deciding it on merits by framing issues and to lead evidence thereupon. Learned Senior Civil Judge, Mirpur Mathelo is advised to comply the direction of appellate court in letter and spirit, including over issue of maintainability and then decide the case in accordance with law expeditiously preferably within a period of three (3) months because it is pending since year 2021.”

5. Having considered the facts, the arguments of the parties, and the above detailed reasoning of the learned District Judge, this Court concurs with the decision of the learned District Judge, having noted that the applicant has a consistent history of filing transfer applications in relation to F.C. Suit No.31 of 2021 (renumbered as F.C. Suit No.94 of 2023). Initially, the suit was filed before the learned Senior Civil Judge, Mirpur Mathelo, who rejected the plaint under Order VII Rule 11, CPC, on the ground of maintainability. In response, the applicant filed an appeal, which resulted in remanding the matter to the trial Court for a decision on merits after framing of issues and leading of evidence by the parties. However, despite the remand order, the applicant filed a transfer application against the former learned Senior Civil Judge, Mirpur Mathelo, which was granted, and the case was transferred to the Court of learned Senior Civil Judge, Ghotki. Subsequently, on administrative grounds due to territorial jurisdiction, the same case was transferred back to the Court of learned Senior Civil Judge, Mirpur Mathelo, where a new learned Judge was posted.

6. This repetitive filing of transfer applications, particularly the present one, in which the applicant claims dissatisfaction with the behavior of the newly posted learned Senior Civil Judge, raises concerns about the applicant's own conduct rather than the fairness or impartiality of the judicial process. This pattern suggests that the applicant may be using the transfer application process as a tactic to delay or obstruct the progress of the case, rather than genuinely seeking a fair trial, keeping the respondents, who are government servants, under pressure.

7. The applicant has attempted to couple two distinct narratives in support of his case. Firstly, the applicant states that he was serving as the Station House Officer of Anti-Encroachment Force, Ghotki, where he alleges that the respondents forcibly sought duties of his staff. When the applicant resisted, he was issued with an explanation based on a concocted and fictitious story, which he replied. Subsequently, the then Deputy Commissioner, Ghotki (respondent No.1) ordered the applicant to get the chambers of advocates vacated amid a dispute between the

District Bar Association, Ghotki and the Municipal Committee, Ghotki. The applicant claims that he requested written authorization and police personnel support to continue his duties, but respondent No.1 did not provide the same. He alleges that on this account, the respondents angered, which resulted in registration of a false FIR (Crime No. 36 of 2020) under Section 381, PPC at Police Station Mirpur Mathelo by them.

8. The second narrative relates to the same FIR, which pertains to the theft of four cables and a computer. The applicant claims that he was acquitted in this matter and subsequently filed the suit for malicious prosecution, seeking damages amounting to Rs.1 crore. Despite these serious allegations, the applicant neither reported the incidents, which he asserts were acts of malice and annoyance, to his superiors nor pursued any departmental remedy. Instead, he chose to approach the Court directly by filing a civil suit.

9. In these circumstances, the application at hand is sans merit and is accordingly **dismissed** along with pending application. The trial Court is directed to proceed with the matter strictly in accordance with law as held by the appellate Court and decide the case within a period of two months hereof, ensuring that no adjournments are granted to the applicant unless there are extraordinary circumstances.

J U D G E

Abdul Basit