

THE HIGH COURT OF SINDH, CIRCUIT HYDERABAD

Civil Transfer Application No. S-29 of 2026

[Raheem Ameen v. Zakaullah]

Applicant: Raheem Ameen s/o Ghulam Mustafa
Through Mr. Aslam Baig Laghari, Advocate

Respondent: Zakaullah. Nemo

Date of Hearing: **26-10-2026**

Date of Order: **26-10-2026**

O R D E R

MUHAMMAD HUMAYON KHAN-J, The applicant, who is the defendant in Summary Suit No. 130 of 2026 (Zakaullah v. Raheel Ameen), has invoked Section 24 of the Code of Civil Procedure, 1908 (“**CPC**”), seeking transfer of the suit from the Court of the learned Model Civil Appellate Court-II/VI Additional District Judge, Hyderabad, to another competent court.

2. The respondent instituted the suit under Order XXXVII Rules 1 and 2 CPC, for recovery of Rs.1,500,000/- on the basis of a dishonoured cheque. The applicant sought leave to defend. By order dated 31.08.2026, the trial court granted leave subject to the applicant furnishing security of Rs.800,000/- in the form of a Defence Saving Certificate with the Accountant of the District Court and a solvent surety for the remaining Rs.700,000/-, within fifteen days. The order also records that the plaintiff’s learned counsel had no objection to leave being granted against security equal to the amount of the cheque.

3. The applicant’s grievance is that the trial court did not take into account a statement attributed to the respondent in Criminal Case No. 2205/2023, in which the respondent is said to have acknowledged receipt of Rs.1,300,000/- from the applicant and his sister; that the cheque number referred to in the order is not the number of the cheque issued by him and that the period of fifteen days allowed for furnishing security is too short and has caused him

mental distress. On these grounds, the applicant asserts that he has lost faith and confidence in the trial court.

4. Section 24 CPC confers discretionary power to transfer a suit at any stage of the proceedings. That power is exercised where the circumstances show that transfer is necessary in the interest of justice. The Supreme Court has held that transfer may be warranted where a party has a reasonable apprehension that the court will not act fairly and impartially (**Muhammad Nawaz v. Ghulam Kadir, PLD 1973 SC 327**). The apprehension must be that of a reasonable person apprised of the relevant facts, and its existence is to be assessed in the circumstances of each case (**Government of N.W.F.P. v. Dr. Hussain Ahmed Haroon, 2003 SCMR 104**). Whether the alleged bias is pecuniary, relates to the subject matter, or is personal, it must disclose a real likelihood of bias; a litigant's bare belief is not sufficient (**All Pakistan Newspapers Society v. Federation of Pakistan, PLD 2012 SC 1**).

5. Measured against these principles, the application identifies no fact suggesting personal interest, hostility, relationship, or other improper conduct on the part of the presiding officer. The complaint is directed at the terms of a judicial order which, in fact, granted the applicant leave to defend, subject to conditions. The imposition of conditions while granting leave under Order XXXVII Rule 3 CPC, is a matter for the trial court to determine in the exercise of its judicial discretion. A party's disagreement with an order, even if the order is considered erroneous, does not by itself give rise to a reasonable apprehension of bias. The appropriate remedy, if available, is to challenge the order before the competent forum; transfer is not a substitute for such a challenge.

6. The objections concerning the cheque number, the statement allegedly made in the criminal case and the amount of security relate to the correctness of the impugned order and the merits of the suit. They cannot be determined in proceedings under Section 24 CPC. The allegation that the time allowed caused mental

distress is not supported by particulars. Nor does the application state that the applicant sought an extension of time from the trial court. The fifteen-day period expired in mid-September 2026, whereas the present application is dated 02.10.2026; it does not assert that the security condition has been met. In these circumstances, the timing and grounds of the application do not support the asserted apprehension of an unfair hearing.

7. A litigant cannot claim a right to select the judge before whom the case is to be tried. A mere expression of lack of confidence, unsupported by cogent grounds, is not a basis for transfer. Were such a plea accepted on its own, dissatisfaction with a judicial order could routinely be used to seek a change of forum, without any demonstrated reason to doubt the impartiality of the court.

8. For the foregoing reasons, no ground for transfer under Section 24 CPC is made out. The application is **dismissed** in *limine*, together with any pending application(s), if any. The trial court shall proceed with the suit in accordance with law and endeavour to decide it within three months from receipt of this order. Nothing stated herein shall prejudice either party on the merits of the suit. The office shall communicate a copy of this order to the trial court for compliance.

JUDGE