

**Case :-** TRANSFER APPLICATION (CIVIL) No. - 810 of 2022

**Applicant :-** Hari Singh

**Opposite Party :-** Shyam Bihari And 20 Others

**Counsel for Applicant :-** Jadu Nandan Yadav, Arimardan Yadav

**Hon'ble J.J. Munir, J.**

1. This transfer application has been moved by the applicant-appellant, who is the plaintiff of O.S. No. 290 of 2013, seeking transfer of Misc. Appeal No. 25 of 2021, Smt. Reshma Devi and others vs. Shyam Bihari and others, arising from the said suit, pending in the Court of the Additional District Judge, F.T.C., Court No. 1, Firozabad to any other Court of competent jurisdiction within the same Judgeship.

2. The applicant, Hari Singh is one of the plaintiffs in O.S. No. 290 of 2013, Fateh Singh and others vs. Shyam Bihari and others. The plaintiff moved a temporary injunction application in the said suit. It was rejected vide order dated 08.09.2021. It appears that a Miscellaneous Appeal, from the order refusing the temporary injunction, is pending before the Additional District Judge, F.T.C., Court No. 1, Firozabad, numbered as Misc. Appeal No. 25 of 2021. It is the applicant's case that the defendants are threatening the applicant-plaintiff that they have colluded with the Presiding Officer in the Appellate Court, where Misc. Appeal No. 25 of 2021 is pending, and on one occasion, the applicant has seen one of the defendants emerge from the chambers of the Presiding Officer. It is on the foot of this allegation alone that the applicant says that he has a reasonable apprehension that the case would be decided against him because the defendants have colluded with the Presiding Officer. The applicant had approached the learned District Judge, Firozabad seeking transfer of the appeal from the Court

## VERDICTUM.IN

of the Additional District Judge, F.T.C., Court No. 1, Firozabad to any other Court of competent jurisdiction. The learned District Judge, Firozabad *vide* his order dated 07.10.2022 has proceeded to reject the transfer application. The learned District Judge, while rejecting the transfer application has remarked taking note of the allegations, that this Court has paraphrased *hereinabove*, that the ground is augmentative and sans material or evidence to substantiate. It has also been remarked that the transfer application has been made with the object to delay proceedings. Having failed before the learned District Judge, the applicant has moved the present transfer application under Section 24 C.P.C.

3. I have heard Mr. Agnivesh, Advocate holding brief of Mr. Arimardan Yadav, learned counsel for the applicant.

4. Learned counsel for the applicant has very vociferously urged that the applicant had seen the defendant emerge from the Presiding Officer's chamber, a fact that shakes a litigant's faith in the fairness of the justice dispensation system.

5. This Court has considered the submissions advanced by the learned counsel for the applicant and perused the record.

6. There is not the slightest tangible evidence or material to support the allegation under consideration, which has, of late, become almost a patent and routine allegation that any litigant may come up with against a Judge in the subordinate Courts whom he does not wish to decide his case, or otherwise, delay proceedings, or for some other tactical reason. In fact, the allegation is so preposterous that it is only stated to be rejected. The other facet of the matter is that making of such unscrupulous and irresponsible allegations by a litigant is the reflection of a bigger trend in society, where the citizens from

## VERDICTUM.IN

all walks of life have developed an outlook, where they think that a Judge is an easy target, and that they can malign the Judges' reputation, alleging anything against them, particularly, the Presiding Officers in subordinate Courts. This tendency is reflected in the complaints that galore on the administrative side of this Court and in transfer applications brought on the most irresponsible allegations, derided of any substance or material. The impact of such transfer applications, if entertained and the Presiding Officer asked to put in his comments, will demoralize the subordinate judiciary. The society, in general, is always conscious of keeping up the morale of the Armed Forces and the Police, but think small of the Judges, from whom they expect justice. This cannot be permitted to happen. The litigants, who indulge in these kind of misadventures, have to be discouraged with a heavy hand.

7. The system of justice works on the edifice of fearlessness in the hearts of those, who man it-whether they be the Judges or the lawyers. If allegations of this kind are entertained by a Superior Court against member of the Subordinate Judiciary, from unscrupulous litigants, it is impossible to expect delivery of justice from a demoralized judiciary, living in perpetual fear. Every litigant, whose case is called on for hearing, expects an order in his favour. However, if the Court passes an adverse order, the litigant has no right to malign the Judge with irresponsible and frivolous allegations. In this regard, reference has to be made to a recent decision of the Supreme Court in **Anupam Ghosh and another v. Faiz Mohammed and Others, Transfer Petition (C) Nos. 2331-2334 of 2021 decided on 02.09.2022**, where it has been observed by their Lordships :

*"One of the grounds on which the proceedings are sought to be transferred is that the petitioners believe that they are not getting a fair*

## VERDICTUM.IN

*trial and the respondents being local bigwigs are able to influence the local Court. We deprecate such a stand and the ground on which the proceedings are sought to be transferred. Merely because some Orders are passed on judicial side (in the present case in the execution proceedings) which may be against the petitioners, it cannot be said that the Court, which passed the order was influenced. If the petitioners are aggrieved by any judicial order, the proper remedy would be to challenge the same before higher forum. But merely because some Orders adverse to them are passed by the Court, it cannot be said that the Orders on judicial side are passed under influence. Nowadays, there is a tendency to make such allegations against the judicial Officers whenever the orders are passed against a litigant and the orders are not liked by the concerned litigant. We deprecate such a practice. If such a practice is continued, it will ultimately demoralize the judicial officer. In fact, such an allegation can be said to be obstructing the administration of justice."*

8. In the entire circumstances of the case, in particular, the fact that this transfer application is reflective of a tendency amongst the litigants that needs to be curbed, this Court is of opinion that the applicant should be saddled with appropriate costs.

9. In the circumstances, this Transfer Application is **dismissed** with costs of Rs.10,000/- recoverable from the applicant. The applicant is ordered to deposit Rs. 10,000/- in costs with the Secretary, District Legal Services Authority, Firozabad within fifteen days of date. In the event, costs are not deposited by the applicant with the Secretary, District Legal Services Authority, Firozabad, through a crossed bank instrument payable in the account, the costs shall be recovered by the District Magistrate, Firozabad from the applicant at the expiration of the said period as arrears of land revenue. The costs recovered from the applicant shall be caused to be credited in account of the Secretary, District Legal Services Authority, Firozabad, by the District Magistrate, promptly.

10. Let this order be communicated to the Additional District Judge, F.T.C., Court No. 1, Firozabad through the learned District Judge, Firozabad, the Secretary, District Legal Services Authority, Firozabad, the District Magistrate, Firozabad and the applicant, Hari Singh through the learned Chief Judicial

**VERDICTUM.IN**

Magistrate, Firozabad by the Registrar (Compliance) **within 48 hours.**

**Order Date:** 22.11.2022/Deepak