

Court No. - 18

Case :- WRIT - C No. - 9204 of 2023

Petitioner :- Koteswar

Respondent :- Additional Commissioner (Judicial Ist), Lko. Division, Lko. And 2 Others

Counsel for Petitioner :- Vivek Kumar Tripathi, Sudhir Kumar Misra

Counsel for Respondent :- C.S.C., Mohan Singh

Hon'ble Saurabh Lavania, J.

Heard learned counsel for the parties.

By means of this petition, the petitioner has sought the following main reliefs:-

"(I) Issue a Writ, Order or Direction in the nature of Certiorari to quash the impugned order dated 29-08-2023 passed by opposite party No.1 in petitioner's transfer application Computerized Case No. C202310000000169 "Koteshawr v/s Sub Divisional Officer, Dalmau Sri Asha Ram Verma & Others" by the opposite party No.1 i.e. Additional Commissioner Judicial, Lucknow contained as Annexure No. 1 to this petition, in the interest of justice.

(II) Issue a Writ, Order or Direction in the nature of Mandamus to transfer the petitioner's application Computerized Case No. C2022105580500759 under section 144 of the U.P. RC2006 pending in the Court of opposite party No.2, in the interest of justice."

The main ground to seek transfer of the case in issue as indicated by the petitioner's counsel taken in the application for transfer is as under:-

"6. यहकि दिनांक 20-01-2013 को न्यायलय के चपरासी ने प्रार्थी को बुलाया और कहा तुमको 1 लाख रुपया देना पड़ेगा तभी मुकदमे में कुछ आदेश हो पायेगा अन्यथा तुम्हारा मुकदमा खारिज हो जायेगा।"

As perusal of above quoted para shows that the allegations against the Presiding Officer concerned appears to be completely vague and mis-conceived.

It is settled principal of law that mere suspicion by the party that he will not get justice would not justify transfer. There must

be a reasonable apprehension to that effect. A judicial order made by a Judge legitimately cannot be made foundation for a transfer of case. Mere presumption of possible apprehension should not and ought not be the basis of transfer of any case from one Court to another. It is only in very special circumstances, when such grounds are taken, the Court must find reasons exist to transfer a case, not otherwise. Reference can be made to the judgment dated 12.11.2014 passed in ***Transfer Application (Civil) No. 519 of 2014 (Amit Agarwal vs. Atul Gupta)***.

In view of aforesaid, the present petition is ***dismissed***.

Order Date :- 19.10.2023

Arun/-