

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.204 OF 2021
ALONG WITH
INTERIM APPLICATION NO.3426 OF 2021

Darshan Kaur Ishar Singh .. Applicant

Vs.

Rameshwarnath Vig & Ors. .. Respondents

...

Mr. Jayom Shah i/b Jasbir Singh Saluja for the applicant.

Mr. Arif Bookwala, senior counsel with Mr. Satyadas D. Joshi
i/b Darmesh Panchal for respondent No.8.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 23RD NOVEMBER, 2021.

JUDGMENT:-

1. On a prayer being made by Mr. R.K. Anand, an eminent senior advocate before the High Court of Delhi seeking recusal of Justice Manmohan Sarin, hearing the case, Justice Sarin while declining the request observed as under:

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“The path of recusal is very often a convenient and a soft option. This is especially so since a Judge really has no vested interest in doing a particular matter. However, the oath of office taken under Article 219 of the Constitution of India enjoins the Judge to duly and faithfully and to the best of his knowledge and judgment, perform the duties of office without fear or favour affection or ill will while upholding the constitution and the laws. In a case, where unfounded and motivated allegations of bias are sought to be made with a view of forum hunting / Bench preference or brow-beating the Court, then, succumbing to such a pressure would tantamount to not fulfilling the oath of office.”

2. The above determination of the High Court of Delhi was assailed before the Apex Court in **R.K. Anand v. Registrar, Delhi High Court reported in (2009) 8 SCC 106** and the aforesaid observation came to be upheld in the following words:

“The above passage, in our view, correctly sums up what should be the Court's response in the face of a request for recusal made with the intent to intimidate the court or to get better of an 'inconvenient' judge or to obfuscate the issues or to cause obstruction and delay the proceedings or in any other way frustrate or obstruct the course of justice.”

3. The present miscellaneous civil application is a classic illustration of an attempt being made by a party to the proceedings to prolong the interim order operating in his favour

and the various applications filed by him before the learned Judge, from whom the proceedings are sought to be transferred by filing an application under Section 24 of the C.P.C. as an arm twisting strategy. It is not uncommon that the litigants, like the present applicant, and their tendency are on the rise to take pleasure in abusing the legal process and when it suits them, make scurrilous allegations against the judge in seisin of their proceedings and when a particular judge do not succumb to such browbeating tactics, they have the audacity to approach the higher court seeking transfer of proceedings by raising a hoax cry that justice will not be done to them.

4. The applicant in the proceedings is appellant No.2, who filed an appeal before the appellate bench of the Court of Small Causes at Bombay vide Appeal No.59 of 2006, by which the judgment and order dated 21/10/2005 in TE & R Suit No.253/274 of 2003 is challenged, where he is impleaded as original defendant No.2 with his mother Darshan Kaur Ishar Singh, being defendant No.1. Since the suit filed by original plaintiff Nos.1 to 7 came to be decreed, the appeal is preferred by the appellant Nos.1 and 2.

5. The material placed before me, is voluminous, but on scanning the jargon, I could pick up the established facts. Just to give a brief background of the proceedings, the predecessor-in-title of the present applicant, Sardar Ishar Singh Daya Singh, by

a registered Indenture of Lease dated 07/04/1947 had obtained a lease from Hoosein Kasam Dada of a plot admeasuring about 3320 sq. yards with structure, *inter alia*, housing a set of four properties, initially for a period of five years, renewable at the option of the Lessee for another 10 years. The terms of the lease allowed the Lessee to construct additional structures thereon and even re-let, sub-let or assign the demised premises so long as this did not cover the whole of such demised premises. The Lessee constructed additional structures of his own in the open portions of the demised premises, most of which he let out to his tenants. The said H.K. Dada was declared an Evacuee and the original demised premises came to be vested in the Custodian of Evacuee Property, Bombay. The Lessee exercised his option of renewal and the said Lease came to be renewed by the Custodian by another Registered Indenture of Lease.

6. The Custodian divided the demised premises into two parts and put them for sale separately by public auction. The Lessee was informed that the rent of the original demised premises was apportioned and directed him to pay rent to one of the auction purchasers, namely, A.N. Vig in respect of the western portion of the demised premises, referred to as the suit premises. The case of the applicant is that the Lessee complied with the aforesaid stipulation during his lifetime and, after his death in 1979, the applicants continued to do so as his legal heirs.

7. Out of the five original auction purchasers of the suit premises, three sold their respective shares to the first, leaving only two auction purchasers, namely, A.N. Vig and Dr. Gopal Das Madhok, who before their death, executed their Wills appointing one Rameshwarnath Vig, as Executor of their respective Wills, who is the son of A.N. Vig and the son-in-law of Dr. Gopal Das Madhok. In the year 1996, seven persons claiming derivative title to the suit premises filed R.A.E. & R. Suit No. 626/1255 of 1996 under the Maharashtra Rent Control Act, 1999 against the applicants and some of the tenants on the grounds of arrears of rent and *bonafide* requirement. The same set of plaintiffs filed suit for eviction by invoking the provisions of the Maharashtra Rent Control Act being T. E. & R. Suit No.253/274 of 2003 against the applicant and his mother.

8. Plaintiff Nos.1 to 5 impleaded themselves as the legal heirs of late A.N. Vig, the first auction purchaser. Plaintiff No.6 (Rameshwarnath Vig) impleaded himself again, but this time in the capacity of the Karta of his father's HUF, namely, Karta of A.N. Vig (HUF). Plaintiff No. 7 impleaded himself this time as the Executor of the Will of Dr. Gopal Das Madhok, who bequeathed his shares in the suit premises to his son, Dr. Ishan Prakash Madhok, who died intestate prior to filing of the suit, leaving his widow Mrs. Akhila Madhok as his only next of kin, and since her whereabouts are not known, he impleaded himself as the Executor of his father-in law's Will.

9. The aforesaid facts are sufficient to introduce the parties and the claim of the applicant in the appeal. The suit was decreed on 21/10/2005 against the applicant.

10. The decree was challenged by the applicant by filing an appeal before the appellate bench of the Court of Small Causes, Mumbai and on 02/03/2006 stay is granted in favour of the applicant with the following order:

“The execution of the impugned judgment and decree is stayed pending the hearing and final disposal of the appeal to the extent of handing over the suit premises only to the respondent/orig plaintiff”. Hearing of the appeal is expedited. Appeal is adjourned for final hearing for 2/03/2004”

11. This order continue to remain in force till date and the further sequence of events would reveal that the applicant is trying his level best to protract the hearing of the appeal and somehow to extend the stay in his favour.

12. During the pendency of the said appeal, a third party - Aslina Technical Institute Pvt. Ltd., moved an application for being impleaded as respondent No.8 in the appeal on the ground that the original decree holders had sold and transferred their rights to it. By order dated 19/11/2010 the application was

allowed and Aslina Technical Institute Pvt. Ltd. was added as respondent No.8 to the appeal. This order was challenged by appellant Nos.1 and 2 in Writ Petition No.10046 of 2010 and while rejecting the said petition summarily and dealing with the objections, learned Single Judge of this court recorded as under:

“4. Learned counsel for the petitioners submitted that the respondent no.1 is not a purchaser of the property and he had not produced sufficient evidence before the appellate court to show that he had purchased the property. The legality, validity or existence of alleged document of transfer was also challenged before the appellate court. The said challenge is repeated before me. In that connection, the appellate court has observed

"so far as legality or validity and existence of alleged document is concerned, the same can be taken into consideration while deciding the matter on merits."

The objection that as to whether the present respondent no.1 has really stepped into the shoes of the decree holder is kept open to be decided at the time of the hearing of the appeal. Therefore, in my view, the impugned order does not affect any substantive right of the petitioners requiring any interference at an interlocutory stage.”

13. Thereafter, the appellants moved an application for stay of

the hearing of Appeal No.59 of 2006 till the decision of R.A.E. & R. Suit No.626/1255 of 1996, which was filed against the appellants and some of the tenants on the grounds of arrears of rent and *bonafide* requirement. The appellate bench of the Small Causes Court rejected the application by recording that the two suits are distinct as they are based on distinct cause of action and are not parallel. The said order was assailed before this court by the appellants by filing Writ Petition No.4175 of 2013 and the said order was upheld. Once again, the appellants moved an application for stay of hearing of the application for mesne profit filed by the decree-holder, which met with the same fate and it was rejected on 07/12/2012.

14. Now, being unsuccessful in stalling the hearing of the appeal in the above manner, appellant No.2 moved an application, below Ex-71, seeking remand of the appeal to the trial court to determine whether or not Akhila Madhok is the heir and legal representative of Gopal Das Madhok and/or the person, who should be brought on record in place of original deceased respondent No.7.

15. Recording that on an earlier occasion also, the very same appellant No.2 had filed an application to bring Akhila Madhok as respondent No.7(a) in place of original respondent No.7 being his legal heir and representative, on record, with a pleading that she represents the estate belonging to deceased Gopal Das

Madhok and, therefore, she was sought to be impleaded as proposed respondent No.7(a), the court recorded that admittedly at that time, appellant No.2 did not make any enquiry as to the legal heirs and representatives of respondent No.7 when he preferred application, Ex-38, but now by filing separate application, an enquiry is sought to be made as to who is the legal heir and representative of respondent No.7. The application filed vide Ex-71 was, therefore, rejected on 20/12/2014.

16. Once again, appellant No.2 was before this court by filing a writ petition under Article 227 of the Constitution of India. Recording that, the said order passed on 20/12/2014 was also challenged in review petition and by clarifying that the application at Ex-71 is not rejected and it will be considered while deciding the application at Ex-38, the writ petition was dismissed by this court (R.G. Ketkar J.) with following direction:

“The Appellant Court will decide application exhibit-38 along with application exhibit-71. As the Appeal is pending since 2006, the Appellate Court is requested to dispose of the appeal not later than 31/12/2018”.

17. On this order being passed by the High Court, the Additional Chief Judge of the Small Causes Court at Mumbai passed an order to the effect that the appeal would be conducted

on day-to-day basis from 10/08/2018. The order was passed in presence of appellant No.2, who appeared in person and the advocate for respondent No.8. In the meantime, appellant No.2 moved an application before the Chief Judge, Court of Small Causes at Mumbai for transfer of proceedings before another bench, which is rejected. Appellant No.2, who appeared in person, submitted before the learned appellate bench that he is moving the High Court to get the transfer order. The court records as under:

“Since this appeal has been Time Bound by the order of the Hon’ble High Court dtd. 25/06/2018 in Writ Petition No.4942 of 2018. So, we have been keeping it for hearing day to day. But the appellant No.2, who is not interested to co-operate with the court to decide the appeal, moved transfer application. As noted above, it has been rejected. But as he has submitted that he will approach the Hon’ble High Court for that purpose, he is given 15 days time. If by 10/09/2018, there is no order about transfer of appeal or stay to the hearing of the appeal, the appellants have to co-operate with the court, otherwise, the court will pass necessary order in the appeal. From 10/09/2018, except Wednesday, the matter would proceed day to day.”

18. Misc. Civil Application No.242 of 2018 filed by appellant No.2 came to be disposed of by this court on 25/03/2019 by recording that the prayer for transfer is not justiciable and the

ground of bias sought to be canvassed is not made out, but it is his mere apprehension that he will not get justice. The Chief Judge of Small Causes Court was directed to allot the appeal pending before Court No.3 to any other court of competent jurisdiction since the applicant, who is appearing before the court nurtured a belief, though not justifiable, that he will not get justice.

19. That is how the proceedings came to be transferred from Court No.3 of Small Causes Court at Mumbai. Now the proceedings are before Court No.2.

20. Once again, appellant No.2 who appeared in person, filed an application seeking adjournment of the appeal to seek appropriate relief from the High Court against order passed by the Small Causes Court. The applications at Ex-38, Ex-51 and Ex-71 are now taken up for hearing by Court No.2 and the application, Ex-38, by which appellant No.2 sought amendment of memo of appeal by bringing on record the legal heirs and representatives of deceased respondent No.1 is allowed. The application, Ex-51, which sought amendment of memo of appeal by deleting the name of appellant No.1 i.e his mother, who died during the pendency of appeal was also allowed. The application, Ex-71, to make an enquiry whether Akhila Madhok is the legal heir and representative of deceased Gopal Das Madhok is rejected. While rejecting the said application filed

under Order 22 Rule 5 of the C.P.C., learned Judge recorded that the said application, Ex-71, was earlier heard and decided by order dated 20/12/2014, where it was directed that the application, Ex-71, can be decided along with application, Ex-38, and, hence, it was 'Filed'. The said order was challenged by appellant No.2 before the High Court and the High Court on 25/06/2018 in Writ Petition No.4942 of 2018 directed that the applications Ex-71 and Ex-38 be decided simultaneously.

21. Recording that, the proposed respondent Nos.1(a) to 1(c) and 6A have not disputed their status as legal heirs and representatives of deceased respondent No.1, they were found to be necessary party. Respondent No.8, who had purchased the suit property, was also a necessary party. In respect of the prayer of proposed respondent No.7A, it was admitted that she was the widow of deceased Ishar P. Madhok, son of Gopal Das Madhok. Since respondent No.1 Rameshwarnath Vig, was an Executor of the Will of Gopal Das Madhok, executed in favour of his son, the proposed respondent No.7A has admitted that she has received her share by way of one-third share in respect of the suit property, and she was not desirous of being impleaded as party to the proceedings. Recording that, this is not her choice and the impleadment of necessary parties must be granted, the application at Ex-38 was allowed and appellant No.2 was permitted to carry out the necessary amendments by joining respondent Nos.1(a) to 1(c), 6A and 7A on record. Necessary

amendment was directed to be carried out within a period of one week as the matter was made time bound by the High Court.

22. On 27/11/2019, an application filed by appellant No.2 seeking adjournment to obtain relief from the High Court came to be rejected keeping in mind the directions of the High Court for expediting the hearing of the appeal. Every attempt on part of the court was rendered futile by appellant No.2 constantly seeking adjournments. Ultimately, on 17/08/2021, the writ petition filed by him vide Writ Petition No.12641 of 2019 posing a challenge to the order passed below Ex-71 on 24/09/2019 was put to rest by upholding the said order and dismissing the writ petition. Learned Single Judge of this court (A.S. Gadkari, J.) specifically made a reference to the order dated 10/02/2011, wherein it was recorded that the objection as to whether respondent No.1 has really stepped into the shoes of the decree holder is kept open to be decided at the time of hearing of the appeal. The objection of appellant No.2, thus was put to rest on dismissal of his petition on 17/08/2021.

23. Since the hearing of the appeal could not be concluded, the Additional Chief Judge, Small Causes Court sought extension of one year for disposal of the appeal and, on 05/08/2021, this court in Writ Petition No.4942 of 2018 granted extension of four months directing the appellate court to decide the appeal on or before 30/11/2021.

24. Despite this, appellant No.2 continued with his persistent efforts to protract the proceedings and order dated 24/09/2021 was passed by the Court of Small Causes, by making reference to the order of High Court passed in 2011 and the following order is passed:

“So when respondent No.8, in present appeal is contesting the appeal on behalf of all other respondents, it would be proper to proceed with the hearing of appeal and other application. Considering the fact that applicant is senior citizen and proceeding with the appeal in-person, we pass following order.

ORDER

The service part on respondent No.7A be waived in view of above order and parties to proceed with the hearing of appeal.”

25. Now, appellant No.2 again filed an application, where he sought to re-call order dated 24/09/2021, on which the seal is already put by the High Court. In an application, which could be just termed as frivolous, he sought time to carry out amendment as prayed for, in Ex-38, Ex-51 and Ex-71 and prayed that a short delay of 33 days may be condoned. The service to the proposed respondent No.7(a) is sought to be effected in accordance with Order 5 Rule 20, 21 and 22 of the C.P.C.

Once again, this application is rejected and his request to serve respondent No.7(a) by Registered Post Acknowledgement Due is dismissed and he is directed to co-operate in deciding the appeal.

The court, thereafter, kept adjourning the matter for his presence on 07/10/2021 and 08/10/2021. On 07/10/2021, appellant No.2, once again, moved an application showing that he is unable to attend the court as he is suffering from acute viral bronchitis, but worth mentioning that, no medical certificate was annexed. Left with no option, the application is rejected and the matter is posted on 11/11/2021 for passing dismissal order.

26. Appellant No.2 once again filed a detailed pursis on 12/10/2021 and chose to remain absent. Learned court adjourned the matter for passing dismissal order for want of prosecution. The next date of hearing of the application was fixed on 12/10/2021 at 11.00 a.m. On the next date, he again remained absent and forwarded a pursis raising all possible grounds under the sun. The matter was again listed on 22/10/2021 for dismissal.

27. It is in the backdrop of these factual aspects, the application filed for transfer of proceedings will have to be perused to ascertain whether the apprehension expressed in the application that he is not likely to get justice, warrant any consideration. The application filed under Section 24 of the

C.P.C. contain the following averments:

“R. It is from 24-09-2021 that things took a sudden turn for the worse and there was a complete change in the attitude, demeanour, behavior and conduct of the Appellate Bench of the Hon'ble Additional Chief Judge Shri A. S. Jadhav and the Hon'ble Judge Shri Satish K. Bangad presiding over the C. R. No. 3 at the Court of Small Causes at Mumbai. It is from that day onwards that the said Bench embarked on what appears, with all due and utmost respect, to be a reckless and brazen journey of what may be termed as “judicial authoritarianism” and “judicial adventurism”, throwing the law out of the window and taking decisions and passing orders in total disregard and ultra vires of the law and what in the United States of America's jurisprudence is described as “trespassing the law”, “out of jurisdiction”, “loosing jurisdiction over the subject matter”, and rendering such orders a “nullity”.

S. On 24-09-2021 the Applicant-Appellant could not remain present in Court due to health reasons, the business listed for the day as per previous day's Roznama was for taking further steps in respect of service of Exhibit No. 86 on Proposed Respondent No. 7A but instead the said Appellate Bench passed an ex-parte Order below Exhibit No. 1 stating that the Respondent No. 8 was representing all the Respondents without there being anything on record to support such conclusion, and in fact amounting to

Contempt of the earlier said Order of the Hon'ble Bombay High Court dated 10-02-2011 below Civil Writ Petition No.10046 of 2010 which had directed adjudication thereof at the time of final hearing, suo moto waived service of notice of Exhibit No.86 on the out of jurisdiction necessary party (ruling of predecessor Bench), the Proposed Respondent No. 7A, reversing its own decision / order dated 01-09-2021 below Exhibit No. 132 in Appeal without any change in circumstances to merit such reversal and without there being any provision of law for this as per legal advice given to me. The said Bench ordered the parties to start final arguments in the Appeal dispensing with carrying out amendments even below the unserved Amendment Application, Exhibit No. 86, not to mention the amendments below the earlier allowed Amendment Applications, Exhibit Nos. 38 and 51 in Appeal. Such a course of action will be fatal to the Applicant-Appellants said Appeal No. 59 of 2006 giving a "walkover" to the Respondents. Annexed hereto and marked Exhibit 'K' is a copy of the said Order dated 24-09-2021 passed below the Exhibit No. 1 in Appeal.

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7. The Applicant-Appellant No. 2, after experiencing what has been stated hereinbefore and being convinced that he will not receive even a proper hearing, much less any due justice, from an Appellate Bench whose inclination, attitude, demeanour and conduct of proceedings is hostile to the Applicant and his constitutionally guaranteed

legal rights and interests, and which is biased towards the Respondents and their Counsel, fearing the worst and apprehending that he is likely to be imminently delivered - hands and feet tied to the Respondents by this Appellate Bench, is thus compelled to file the present Miscellaneous Civil Application for transfer of the said Appeal No. 59 of 2006 and proceedings thereunder from the C. R. No. 3 at the Court of Small Causes, Mumbai, currently presided over by the Hon'ble Additional Chief Judge Shri Ashok . S. Jadhav and the Hon'ble Judge Shri Satish K. Bangad, to any other Appellate Bench of competent jurisdiction at the Court of Small Causes at Mumbai, other than that constituted by the aforesaid Hon'ble Judges and / or either of them....”

Though I cannot afford to reproduce the application full of scurrilous accusation, I must say that the applicant has made allegations undermining the authority of the court and tending to disrepute and disrespect its majesty, which would attract the provisions of the Contempt of Courts Act.

28. The urgency expressed in hearing of the application as mentioned is that the court may dismiss the appeal in default/non-prosecution as threatened by it.

The application is nothing, but an extreme abuse of the process as an apprehension is expressed by him that the judge is biased.

The rule of bias is founded on the well known maxim

nemo judex in causa sua i.e. no person can be a judge in his own case. The frequency with which the allegations of bias have come up in the recent times indicate the reminder of Lord Hewart in **R. v. Sussex Justices** reported in **(1924) 1 KB 256**, that it is a fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. True it is, that in considering whether there is a real likelihood of bias, the court does not look at the mind of the justice himself or at the mind of the chairman of the tribunal, or whoever it may be, who sits in a judicial capacity. It does not look to see if there is a real likelihood that he would, or did, in fact favour one side at the expense of the other. The court looks at the impression which would be given to other people. Even if he was as impartial as could be, nevertheless, if right minded persons would think that, in the circumstances, there was a real likelihood of bias on his part, then inference of bias can be drawn.

29. In **Ranjit Thakur v. Union of India & Ors.** reported in **AIR 1987 SC 2836**, the test of bias was set out in the following words by M. Venkatachaliah, J. (as he then was) “as to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, “Am I biased?” but to look at the mind of the party before him. In **R. v. Sussex Justices**

(supra), it has been held that answer to the question whether there was real likelihood of bias, depends not upon what actually was done, but upon what might appears to have been done.

30. Applying the aforesaid principle to the sequence of events, to which a reference was required to be made in great detail, was to ascertain whether the applicant is justified in carrying a feeling that he will not get justice. The stay granted in favour of the applicant is continued since the year 2010 and it is more than a decade that the appeal is pending on the file of the appellate bench of the Small Causes Court at Mumbai. The applicant has ventured into every possibility of stalling the hearing of the appeal despite the fact that this court in June, 2018 directed the appellate bench to dispose of the appeal on or before 30/11/2021. Every attempt made by the appellate court by scheduling its hearing on day-to-day basis has been thwarted by appellant No.2. The objections raised, to which I have intentionally referred to in great detail, are in fact kept open to him by the very first order passed by this court in the year 2011, since he was objecting to defendant No.8, being the subsequent purchaser of the property, and recording that the objection as to whether he had stepped into the shoes of the decree-holder shall be kept open to be decided at the time of hearing of the appeal, the writ petition came to be dismissed on 10/02/2011. Despite several rounds in the High Court assailing each and every order passed by the Chief Judge and, ultimately, the writ petition filed by him

is dismissed on 17/08/2021. In between the appellate court received a direction from this court, by way of extension to conclude the proceedings on or before 30/11/2021 and, the cantankerous litigant, on his way to render the direction infructuous left the learned judge with no option, but to proceed with the appeal on day-to-day basis, when he chose to remain absent on consecutive days and moved applications/pursis from time to time requesting the judge to adjour the proceedings without any rhyme or reason.

While he is adopting the said strategy before the appellate bench of the Small Causes Court, he moved this court by taking out the present application expressing apprehension that he is not likely to get justice and sought transfer of the proceedings. Indulgence was granted to him when proceedings were transferred from Court No.3 to Court No.2 because, he has expressed apprehension of bias and this has probably emboldened him with a feeling that when he make allegation against a particular judge, his request will be granted. However, such a litigant must be given to understand that the power of transfer of proceedings cannot be exercised at the drop of the hat and, merely on the whims and fancies of a litigant, who make every attempt to protract the proceedings by filing frivolous applications and when orders are passed by the court, which are upheld by the higher court, he continued with his relentless efforts to stall the proceedings.

I do not think that such a litigant is to be entertained by

invoking power available under Section 24 of the C.P.C.

31. For this scurrilous application, which he has made, I could have issued a notice for initiating contempt proceedings against him, but since the majesty of the court believe in being magnanimous and since the applicant is a litigant in person, probably unaware of the nuances in law, I am desisting from proceeding against him. However appellant No.2 is now supported by a counsel and, it is very apparent from his argument that he is a junior counsel and, in fact, what was argued by him was difficult to understand and I was not able to follow what he intended to convey. However, when a query was put to him, appellant No.2, who was present in the court, jumped in and assisted his counsel. I am being told that appellant No.2 appeared in person before the appellate bench of the Small Causes Court at Mumbai and though the counsel was made to understand the consequence of the actions of his client, being a junior counsel, he continued to side with the applicant in his endeavour to press for transfer of proceedings, though I gave him an opportunity to withdraw the said proceedings.

Considering that learned counsel should not be put to a disadvantageous position and since it is the counsel who had put forth the cause of the applicant, I am convinced not to initiate proceedings for contempt. However for wasting the valuable time of the court and making such frivolous applications and proceeding with the same and, with the same audacity

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approaching this court seeking transfer of the appeal from one judge to another, while dismissing the application, I deem it expedient to impose a heavy cost of Rs.50,000/- upon the applicant. The cost shall be paid by the applicant to the Legal Services Authority, which caters to delivery of justice to the poor and needy litigants, who have no luxury of fighting for their just cause and for protecting their interests and rights.

The cost shall be deposited within a period of four weeks from uploading of this order. Compliance shall be reported on expiry of four weeks.

32. List the matter for compliance on 10/01/2022.

[SMT. BHARATI DANGRE, J.]