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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2915 OF 2023

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Nitin Bhagawan Magar

... Petitioner

V/s.

Anna Krushna Gaikwad & Ors.

... Respondents

Mr. Rahul S. Kadam for the petitioner.

Mr. Rajaram V. Bansode for respondent Nos.1 to 4.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 23, 2023

PC.:

1. By this writ petition under Article 227 of the Constitution of India, the petitioner is challenging order dated 9 February 2023 passed by the Principal District Judge, Satara rejecting application of the petitioner filed under Section 24 of the Code of Civil Procedure, 1908 for transfer of Miscellaneous Civil Appeal No.3 of 2022 to any other Judge.

2. The ground pleaded for transfer of the Miscellaneous Civil Appeal is grant of 28 dates for delivering judgment in Miscellaneous Civil Appeal No.3 of 2022. According to him, the order of *status quo* passed in the appeal resulted in causing loss to the petitioner as the sugarcane in the land could not be harvested. The District Judge rejected the application holding that there is no reason for transfer of the case.

3. Learned advocate for the petitioner relying on the judgment of the Apex Court in the case of **Gurcharan Dass Chadha v. State of Rajasthan** reported in AIR 1966 SC 1418 submitted that if there are circumstances which leads to the inference that justice will not be done, a party is entitled to seek transfer of his case.

4. The question, therefore, needs to be adjudicated is as to whether the facts pleaded by the petitioner in his application under Section 24 of the Code of Civil Procedure, 1908 leads to the inference of reasonable apprehension that he will not get justice. The reason mentioned in the application is adjournment of Miscellaneous Civil Appeal on 28 dates. Ordinarily, such reason may lead to the inference that there is delay in adjudicating the appeal. However, some delay without anything more does not lead to necessary inference that justice will not be done. It is well settled that the order of transfer of proceedings from one Judge to another is not a matter of routine or merely because an interested party has expressed some apprehension about proper conduct of trial. Such power has to be exercised cautiously and in exceptional situations when it becomes necessary to do so to provide credibility to the trial.

5. More often, filing of such application is used as a tool for forum-shopping. Unscrupulous litigants indulged in Court hunting. Therefore, the Court must address the issue as to whether the apprehension of bias is real and reasonable. Considering the reasons mentioned in the application, in my opinion, mere delay in deciding the appeal would not necessarily lead to the conclusion

that the apprehension of bias is real and reasonable.

6. However, it would be in the fitness of things that the District Judge-1, Satara is directed to decide Miscellaneous Civil Appeal No.3 of 2022 within four weeks from today.

7. The writ petition accordingly stands dismissed. However, the District Judge-1, Satara is directed to decide Miscellaneous Civil Appeal No.3 of 2022 within four weeks from today.

8. No costs.

(AMIT BORKAR, J.)