



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16504 OF 2024**

Vanita Dilipkumar Kulkarni	...	Petitioner
versus		
Chintamani Manohar Apte and Ors.	...	Respondents

Mr. Kalpesh U. Patil, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 28 JANUARY 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The Petitioner/Plaintiff in RCS No.475 of 2022, has preferred this Petition being aggrieved by an order dated 18 April 2024 passed by the learned Principal District Judge in Civil Misc. (Transfer) Application No.2 of 2024, whereby the application preferred by the Petitioner seeking transfer of Misc. Civil Appeal Nos.103 of 2022 and 104 of 2022, from the Court of learned District Judge-II, Karad, to another Court, came to be rejected.
3. Some of the Defendants in the Suit instituted by the Plaintiff, have instituted RCS No.611 of 2022. In both the suits, application for temporary injunction were filed. The Plaintiff's application for temporary injunction was allowed. The application for temporary injunction in the suit instituted by the Defendants, came to be rejected. Resultantly, two appeals being Misc. Civil Appeal Nos.103 of 2022 and 104 of 2022 were filed. However, the appeals

were assigned to two different courts. By an administrative order, both the appeals were assigned to the Court of learned District Judge-II, Karad.

4. The Petitioner preferred an application for transfer of the appeals from the Court of learned District Judge – II, Karad, expressing apprehension of bias against the learned Presiding Officer. It was, inter alia, alleged that the Presiding Officer had stayed the proceedings before the trial Court by verbal instructions. The Petitioner, thus, had an apprehension that she would not get fair justice. The learned Principal District Judge, was of the view that the mere fact that on the given date, the learned District Judge II, on account of paucity of time, was unable to take up the appeals, and, thus, expected the parties not to precipitate the matter before the Trial Court was not a reasonable ground for apprehension of bias. Thus, the application came to be rejected.

5. Mr. Patil, learned Counsel for the Petitioner, would urge that the learned Principal District Judge did not properly appreciate the case of the Petitioner. The manner in which the proceedings were conducted before the learned District Judge II, clearly give rise to apprehension of bias. The learned District Judge II could not have verbally directed the parties not to proceed with the matter before the trial Court. Mr. Patil invited attention of the Court to an order dated 9 January 2024, passed by the learned District Judge II on an application (Exhibit 36) in MCA No.103 of 2022, preferred by the Respondent

No.1 herein, staying the effect and operation of the injunction order passed by the trial Court till the next date. It was submitted that by an order dated 18 July 2023, the transferor Court had refused to extend status quo. This would indicate that the approach of the learned District Judge II was not just and fair.

6. On first principles, I am afraid to accede to the submission of Mr. Patil that the fact that the learned District Judge II passed an order dated 9 January 2024 staying the effect and operation of the injunction order, which was impugned in Misc. Civil Appeal No.103 of 2022, can be a reasonable ground for entertaining the apprehension of bias. From the perusal of the said order, it appear that when the said application was taken up for hearing, neither the Petitioner had appeared before the Court, nor any reply was filed to the said application opposing the prayer of interim relief. If the Petitioner was aggrieved by the said order, the appropriate course was to assail the said order in an appropriate proceeding. Therefore, the grant of interim relief in the pending appeal, by itself, cannot be a ground for seeking transfer.

7. On the aspect of verbal order asking the parties not to proceed before the trial Court during the pendency of the appeal, the learned Principal District Judge seems to have taken a cautious and reasonable view of the matter.

8. It is trite, transfer of a proceeding from one Court to another on the ground that the Presiding Officer has displayed an attitude of bias, or that he has exhibited such conduct as would give rise to an apprehension in the mind

of the party that it would not get justice, is fraught with grave consequences. Transfer on the ground of apprehension of bias or likelihood of injustice, cannot be as a matter of course. There ought to be circumstances which sustain the real likelihood of bias. The Court exercising the power under Section 24 of the Code, is, therefore, required to satisfy itself about the existence of material which justifies such reasonable apprehension.

9. Reverting to the facts of the case, suffice to note, the averments in paragraph No.6 of the application for transfer have the tendency to embroil the Judicial Officers in the controversy. The view of the learned Principal District Judge that the expectation of the learned District Judge II, when the appeals could not be taken up for hearing on a particular day, that the parties shall not precipitate the matters before the Trial Court, does not justify an apprehension of bias, appears justifiable. This Court does not find any reason to interfere with the discretionary order passed by the learned Principal District Judge.

10. Hence, the Writ Petition stands dismissed.

(N.J.JAMADAR, J.)