



IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 19<sup>th</sup> DAY OF APRIL, 2002

BEFORE

THE HON'BLE MR. JUSTICE D.V.SHYLENDRA KUMAR

CIVIL REVISION PETITION No. 2878 OF 2001

C/W

C.R. P. Nos. 2864 to 2865 AND 2817 OF 2001

BETWEEN

M-V GANESH PRASAD  
S/O M L VASUDEVA MURTHY  
45 YEARS, R/O SHIVA KRUPA  
BEHIND LALITHA PRASADAM  
COFFE PLANTER,  
HOSAMANE EXTENSION  
CHICKMAGLAUR

... PETITIONER  
(COMMON IN ALL THE PETITIONS)

( By Sri UDAYA HOLLA, ADV. )

AND:

1 M L VASUDEVAMURTHY  
S/O LATE MYSORE LACHIA SETTY  
84 YEARS,  
R/O LALITHA PRASADAM  
HOSAMANE EXTN,  
CHICKMAGALUR

ALSO AT GOKULA,  
CHICKMAGALUR ALSO AT NO 90  
SOUTH END ROAD,  
BASAVANAGUDI  
BANGALORE

- 2 M V PARVATHAVARDHANA  
W/O M L VASUDEVAMURTHY  
MAJOR , R/O LALITHA PRASADAM  
HOSAMANE EXTN, CHICKMAGALUR ALSO AT  
GOKULA, CHICKMAGALUR ALSO AT NO 90  
SOUTH END ROAD, BASAVANAGUDI  
BANGALORE
- 3 M V CHANDRASHEKAR  
S/O M L VASUDEVA MURTHY  
53 YEARS, NO 26/27, SIRIDHAM  
3 CROSS, 7 BLOCK, WEST JAYANAGAR  
BANGALORE
- 4 M S BHOJE GOWDA  
S/O SANNE SIDDE GOWDA  
48 YEARS, R/O KRISHNAGIRI ESTATE  
DASARAHALLI, CHICKMAGALUR

... RESPONDENTS  
IN CRP2878/01

(By Sri RAVIVARMA KUMAR, ADV. FOR C/R4 )

CRP FILED U/S.115 CPC AGAINST THE JUDGEMENT/ORDER  
DATED 30/6/2001 PASSED IN CIVIL MISC.NO.19/2000 ON THE FILE  
OF THE PRL. DISTRICT & SESSIONS JUDGE, CHIKMAGALUR,  
DISMISSING THE PETITION FILED U/S.24 OF THE CPC.

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- 1 M L VASUDEVA MURTHY  
85 YRS, S/O LATE MYSORE LACHALAH  
SETTY, LALITHA PRASADAM, HOSAMANE, EXTN  
CHICKMAGLAUR

- 2 S C PARASHURAM  
34 YRS, S/O LATE SARGOD CHANDRA GOWDA  
COFFEE PLANTER, P B NO 47  
SETTY STREET, CHICKMAGLAUR
- 3 S C SRINIVAS  
36 YRS, S/O LATE SARGOD CHANDRE GOWDA  
COFFEE PLANTER, P BNO 47  
SETTY STREET, CHICKMAGLAUR
- 4 M V PARAVATHAVARDHANA  
63 YRS, W/O M L VASUDEVA MURTHY  
LALITHA PRASADAM, HOSAMANE EXTENSION  
CHICKMAGALUR
- 5 M V CHANDRASHEKAR  
53 YRS, S/O M L VASUDEVA MURTHY  
R/O SIRIDHAM, 26/27, 3 CROSS  
7 BLOCK, WEST JAYANAGAR  
BANGALORE
- 6 V GIRIJA SRINEVASAN  
W/O V SRINEVASAN, MAJOR  
RAJARAJESHWARI KRUPA  
33 CROSS, 16 MAIN, 4 T BLOCK  
JAYANAGAR, BANGALORE

... RESPONDENTS  
IN CRP 2864/01

(By Sri : )

- 1 P NAGARAJA S/O PAPANNA  
MAJOR, R/O.DARJEE STREET  
CHICKMAGALUR
- 2 A T HEMAVATHI  
W/O.B.K.NANJE GOWDA  
AGED 40, C/O.B.K.NANJE GOWDA  
SUB INSPECTOR OF POLICE  
SORABA POLICE STATE  
SORABA

3 C P MANJU  
S/O.RAMA NAIKA  
AGED ABOUT 44 YEARS  
R/O.DONIKANA, CHICKMAGALUR

... RESPONDENTS  
in CRP 2863/01.

(By Sri : \*\*\*\*\* )

1 M L VASUDEVAMURTHY  
AGED ABOUT 85 YEARS  
S/O.LATE MYSORE LACHALAH SETTY  
EX.M.L.C. AND COFFEE PLANTER  
LALITHA PRASADAM, HOSAMANE  
EXTENSION, CHICKMAGALUR

2 M V PARAVATHAVARDHANA  
AGED ABOUT 63 YEARS  
W/O.M.L.VASUDEVA MURTHY  
LALITHA PRASADAM  
HOSAMANE EXTENSION  
CHICKMAGALUR

3 M V CHANDRASHEKAR  
AGED ABOUT 53 YEARS  
S/O.M.L.VASUDEVA MURTHY  
R/O.'SRIDHAM'  
26/27, 3RD CROSS  
7TH BLOCK, WEST JAYANAGAR  
BLORE-11

4 V GERIJA SRINIVASAN  
W/O.SRI.V.SRINIVASAN  
MAJOR, RAJARAJESHWARI KRUPA  
33RD CROSS, 11TH MAIN ROAD  
4TH T BLOCK, JAYANAGAR  
BLORE-11

5 D VEERENDRA HEGGADE  
S/O.SRLRATHANAVARMA HEGGADE  
AGED ABOUT 61 YEARS  
DHARMADHIKARI OF SRLMANJUNATHA  
TEMPLE, DHARMASTHALA, D.K.DIST.

... RESPONDENTS  
IN CRP 2366/01

(By Sri : )

CRP FILED U/S.115 CPC AGAINST THE JUDGEMENT/ORDER  
DATED 30/6/2001 PASSED IN CIVIL MISC.NO.21/2000 ON THE FILE  
OF THE PRL. DISTRICT & SESSIONS JUDGE, CHIKMAGALUR,  
DISMISSING THE PETITION.

- 1 STATE BANK OF MYSORE  
MAIN BRANCH  
CHICKMAGALUR  
REP BY ITS MANAGER  
CHICKMAGALUR
- 2 M/S GANESHA AND CO  
"LALITHA PRASADAM"  
(REGD. OFFICE)  
HOSAMANE EXTENSION  
CHICKMAGALUR
- 3 M LO VASUDEVAMURTHY  
S/O LATE MYSORE LACHIA SETTY  
AGE:84 YEARS  
R/O LALITHA PRASADAM,  
HOSAMANE EXTENSION  
CHICKMAGALUR,  
AT GOKULA SHESHAPPA STREET,  
FORT, ALSO AT 007, PREMIER GRUHALAXMI  
APARTMENTS,NO.90,SOUTH END,BASAVANAGUDI  
B'LORE
- 4 M V PARVATHAVARDHANA

W/O M.L.VASUDEVAMURTHY  
MAJOR  
R/O LALITHA PRASADAM,  
HOSAMANE EXTENSION  
CHICKMAGALUR,  
AT GOKULA SHESHAPPA STREET,  
FORT, ALSO AT 007, PREMIER CRUHALAKMI  
APARTMENTS,NO.90,SOUTH END,BASAVANAGUDI  
B'LORE

- 5 A R KAMALA  
W/O A.R.RAMA SETTY  
NO.425, KAMAL NIVAS  
DEVAMBA AGARHAR  
NEAR IYENGAR MESS  
MYSORE
- 6 T R SATHYALAKSHMI  
S/O T.R.RAMAPRASAD  
NO.115/1, SHARADAPRASAD  
NAGARAJA LAYOUT  
BULL TEMPEL ROAD  
CHAMARAJPET  
BANGALORE-18
- 7 B N GAYATHRI  
W/O B.N.NATARAJ  
NO.1, MAHALAKSHMI NIVAS  
NAZARBAD EXTENSION  
MYSORE
- 8 A P RUKMINI  
W/O PARANJYOTHI  
MAJOR, RUKMINI NILAYA  
90, BANASHANKARI TEMPLE STREET  
30TH CROSS, BANGALORE-4
- 9 GIRIJA SRINIVASAN V  
W/O V.SRINIVASA,MAJOR  
G.129, I MAIN, ANNA NAGAR  
MADRAS 102, AND ALSO AT

NO.13, 33RD CROSS  
RAJAJRAJESHWARI KRUPA,  
16TH MAIN  
4TH T BLOCK,  
JAYANAGAR,  
BANGALORE-11

... RESPONDENTS  
IN CRP 2817/01

(By Sri: PUTTIGE R RAMESH FOR C/R1, M/s. Kumar & Kumar,  
Advocates for R3. R5 served. R4 service held sufficient. R2 notice not  
ordered

CRP FILED U/S.115 CPC AGAINST THE JUDGEMENT/ORDER  
DATED 20/6/2001 PASSED IN CIVIL MISC.NO.13/2000 ON THE FILE  
OF THE PRL. DISTRICT & SESSIONS JUDGE, CHIKMAGALUR,  
DISMISSING THE PETITION FILED U/S.24 CFC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED  
FOR ORDERS AND COMING ON FOR PRONOUNCEMENT OF ORDER  
THIS DAY, THE COURT PRONOUNCED THE FOLLOWING ORDER:-

### COMMON ORDER

These Civil Revision Petitions are directed against a  
common order dated 30.6.2001 passed by the Principal District &  
Sessions Judge, Chikmagalur in Civil Miscellaneous Case Nos.13,  
19, 20, 21 and 22 of 2000 on his file. The order impugned came  
to be passed in common on petitions filed under Section 24 of  
the Code of Civil Procedure in the civil Miscellaneous cases



referred to above seeking for transfer of the original suits O.S. 12/1992 in C.Misc.No. 13/2000, O.S. 198/1997 in C.Misc.No. 19/2000, O.S.76/1999 in C.Misc.No.20/2000, O.S. 176/1997 in C.Misc. No.21/2000 and O.S. 158/1998 in C.Misc. No. 22/2000 pending on the file of the Civil Judge(Senior Division) Chickmagalur either to the Court of District & Sessions Judge, Chickmagalur or to any other competent Court and by the impugned common order the learned District Judge has dismissed all the Civil Miscellaneous cases rejecting the prayer for transfer. It is against this order the above revision petitions have been filed by the petitioner.

2. Of the 5 suits pending on the file of the Court of Civil Judge (Senior Division), Chickmagalur, O.S.No.12/1992 had been filed by the State Bank of Mysore against the petitioner and other defendants, petitioner figuring as the 1<sup>st</sup> defendant for recovery of certain amount due to it by enforcing the mortgage made in its favour. The other 4 suits namely O.S.Nos.198/97, 76/99, 176/97



and 158/98 are suits filed by the present petitioner against the members of his family and in O.S.198/1997 the purchasers of certain properties which the plaintiff claims to be part and parcel of the joint family property are also impleaded as defendants. In these suits the petitioner plaintiff had sought for relief of declaration to his entitlement to the share of joint family property, for putting him in possession of such share and also for a declaration that certain transactions of sale and gift deeds executed by the parents of the petitioner as invalid and not binding on him and for consequential relief.

3. The petitioner plaintiff moved the District and Sessions Court, Chickmagalure by filing Civil Miscellaneous Cases praying for transfer of the said suits on the premise that the remarks and abuses hurled by the Presiding Officer against the petitioner in the course of the proceedings in O.S.No.12/1992 particularly the conduct and reaction exhibited by the Presiding Officer on 26.7.2000 was very caustic and the learned Presiding Officer has



used intemperate language in the course of the proceedings of the suit which caused reasonable apprehension in the mind of the petitioner that if the suits are continued to be tried by the very learned Judge he may not get justice from the Court. The petitioner has also alleged in the petition before the learned District Judge that certain entries in the order sheet maintained in O.S.No.12/1992 indicates that the Presiding Officer might have adverse to the interest of the petitioner interpolated or made corrections subsequent to the passing of the order on the days mentioned therein which interpolation/correction has affected adversely the interest of the petitioner in the suit and in view of these developments the petitioner complained before the District Judge that he has reasonable apprehension of the said developments having caused or likelihood of causing prejudice against the petitioner on the part of the Presiding Officer of the trial Court and as such he is seeking transfer of all the suits from that Court. Such plea and contentions urged by the petitioner did not find favour with the learned District Judge and



accordingly all the petitions came to be dismissed with cost of Rs.200/- each to the respondent. It is in these circumstances the petitioner has approached this Court filing revision petitions under Section 115 of C.P.C. praying for setting aside the impugned orders and for allowing his Civil Miscellaneous cases by transferring the suits to any other competent court.

4. I have heard the submissions of all the learned counsel appearing for the parties in these cases. I have also perused the records of the Court below which were called for subsequently and the reply of the Civil Judge (Senior Division), Chickmagalur from which Court the suits were sought to be transferred in response to the letter of the learned District Judge calling for the comments and response of the learned trial Judge in the light of the submissions contained in the civil miscellaneous cases and the grounds urged in support of transfer applications under Section 24 of C.P.C.



5. Sri Udaya Holla, learned counsel appearing on behalf of the petitioner in all these petitions very vehemently submits that the learned District Judge has totally failed to appreciate the scope and the extent of the power under Section 24 of the Act, that the learned District Judge ought to have allowed the transfer applications particularly when based on the incident which occurred during the course of the proceedings in O.S.12/1992 which according to the learned counsel for the petitioner clearly indicates the prejudice or bias on the part of the Presiding Officer in as much as the Presiding Officer had used a very intemperate and abusive language against the petitioner and that this ground in itself should have been sufficient to transfer the cases to some other court. The learned Counsel further submits that the learned District Judge did not appreciate the grounds for transfer even though there is every likelihood of prejudice being caused to the parties in the suit if tried by the same Judge that even when one of the parties to the suit expresses reasonable apprehension of bias against the Presiding Officer, such bias having a bearing or could



affect the outcome of the case, such a ground is more than sufficient whereby the power of transfer should have been exercised by the District Judge. In this regard the learned counsel further submits that the existence of the reasonable apprehension or bias cannot be judged from the angle or understanding by either the presiding officer or any other person but it should be examined from the angle of the persons expressing such apprehension namely as perceived by the person seeking for transfer who has entertained such reasonable apprehension in his mind that the Presiding Officer is either biased or likely to be biased because of certain developments that had been taken place and the learned District Judge having not applied this test for determining as to whether the case requires to be transferred to any other Court, the order impugned in these revisions are vitiated and are required to be set aside. In this behalf the learned Counsel for the petitioner has placed reliance upon the following decisions in support of his submissions that the learned District Judge has not properly appreciated the



principles governing the existence of bias and in its application to the facts of the case.

1. AIR 1966 SC 1418
2. AIR 1987 SC 2386
3. AIR 1998 SC 2050
4. 1995(6) SCC 744.

6. The Petitioner has also filed an application under Order 41 Rule 27 read with Section 151 CPC seeking permission of the Court to produce additional evidence in the form of certified copy of the order sheet in O.S.12/1992 on the file of the Civil Judge Senior Division, Chicknagalur. The purpose of filing this application is to make home the second ground of attack in respect of the order passed by the District Judge declining the application under Section 24 of C.P.C. The second ground of attack is that the learned Civil Judge before whom the suit is pending has virtually tried to alter the notings and recordings in the order sheet and to the detriment of the petitioner and such attempt on the part of the Presiding Officer clearly indicates bias and prejudiced mind on the part of the Presiding Officer as against

the petitioner. The attempt on the part of the Presiding Officer, the learned counsel wants to demonstrate by drawing comparison of the order sheet which the petitioner had obtained immediately after the recording as on the particular date and the certified copy of the order sheet which had been obtained little later, noticed that certain words which were not in the original order sheet has been inserted and it is the submission of the learned Counsel that the said insertion is by the learned trial Judge to damage the case and cause of the petitioner. Such circumstance, according to the learned counsel for the petitioner, is a clear indication of bias on the part of the trial Judge as against the petitioner. The learned Counsel has placed reliance on the following decisions in support of his submission that additional evidence can be produced at the appellate stage and revisional jurisdiction being part of the Appellate jurisdiction, can receive the same in a revision petition also. The decisions are:

1. ILR 1992 Kar. 3772,
2. AIR 1968 SC 843



7. Yet another application seeking for an order of temporary injunction against some of the respondents to restrain them from allowing the removal of some standing trees has come to be filed during the pendency of the above C.R.Ps before this Court. Though the learned counsel placed reliance on the following decisions to indicate an application of this nature also can be ordered by the High Court even in the exercise of revisional jurisdiction the application is not seriously pressed. Those decisions are:

1. AIR 1949 Madras 282
2. AIR 1951 Madras 807
3. AIR 1962 SC 527 and
4. AIR 1976 SC 1152.

8. Sri Ravivarma Kumar, learned Counsel appearing on behalf of 4<sup>th</sup> respondent in C.R.P.2878/2001 has raised a preliminary objection regarding the maintainability of the above C.R.P. under Section 115 C.P.C. The learned Counsel has placed



reliance on the decision of the Supreme Court in AIR 1999 SC 287 in support of his submission that the C.R.P. is not maintainable. Without prejudice he further submits that the legality of an order passed or a procedure followed cannot constitute a ground for seeking transfer of the case from one court to another court with regard to the ground of bias and submits that there is absolutely no material to indicate any biased conduct on the part of the Presiding Officer. He further submits that on the other hand, it is clear an attempt on the part of the petitioner to drag on the proceedings and the petitioner has therefore filed transfer application to stall and protract the proceedings pending before by the trial Judge and to achieve his goal of dragging the proceedings and for such purpose has made false untenable and reckless allegations against the Presiding Officer. The learned Counsel submits that the allegation of interpolation in the order sheet by the trial Judge has been properly dealt with by the learned District Judge and submits that this is a false and baseless allegation. He further submits that the application seeking production of additional evidence filed by



the petitioner should not be entertained by this Court and the said application has to be rejected. It is submitted that no proper foundation had been laid before the District Judge for producing such material and as such additional material should not be received before this Court. The learned Counsel also submits that in the context of the adding of the word "submits" which according to the learned counsel for the petitioner is a subsequent addition and that will not make any difference to the case of the plaintiffs or the defendants in the suit assuming that it was a subsequent insertion. When the existence of the word "submits" does not in any way affect the interest of the petitioner the very basis for making the allegation that the learned Judge is biased for the reasons that the Judge had tried to alter the order sheet to prejudice the case of the petitioner falls to the ground and when this ground seeking for transfer namely the ground of bias fails, in reality there is no bias and that it is only a make believe case sought to be projected on behalf of the petitioner and therefore the CRP has to be dismissed.



9. He further submits that the petitioner cannot invite this Court to embark upon a roving enquiry into the day to day conduct of the proceedings including the maintenance and noting of the order sheet and it is submitted that it is not the function of this Court to embark upon such enquiry in the exercise of revisional jurisdiction. Sri Ravivarma Kumar submits that this is clearly a case of abuse of the process of this Court by the petitioner. In this regard he has placed reliance on the decision of the Supreme Court reported in AIR 1972 SC 237 M.N. SETHI vs R.C. PRAHU and submits that the entire allegations sought to be made against the learned trial Judge is only in respect of remarks of the learned trial Judge said to have been made on 26.7.2001 when the trial Court was in the midst of hearing O.S.No.12/1992 and submits the petitioner being aggrieved by the order passed on 26.7.2001 had approached this Court questioning the legality of the same by filing C.R.Ps 2722 & 2723 of 2000. These C.R.Ps were dismissed by this Court as per order dated 23.2.2001 and



though in the application for transfer namely M.C.19/2000 the incident that had occurred in the court on 26.7.2000 is sought to be projected as a ground for transfer on the allegation of bias on the part of the Presiding Officer, the petitioner had not whispered one word in this regard when the two C.R.Ps came to be dismissed and against the very order. In the circumstance the learned Counsel submits that the allegation made in the transfer application in MC 19/2000 was clearly with ulterior motive and made for the purpose of stalling the further proceedings in the suit. This clearly demonstrates the lack of bonafides on the part of the petitioner and the learned counsel submits that the C.R.Ps are to be dismissed in limine.

10. Sri P.R. Ramesh, learned Counsel appearing on behalf of the 1<sup>st</sup> respondent State Bank of Mysore in C.R.P.2817/01 submits that these C.R.Ps are without merit, that the transfer application filed before the learned District Judge which were without any factual or legal basis have been rightly dismissed by the learned



District Judge; that the allegation of bias is only a ruse on the part of the petitioner to drag on the proceedings and a mere refusal for adjournment by the Presiding Officer on noticing that the party is in the habit of seeking repeated adjournments cannot give rise to an apprehension of bias as is sought to be made by the petitioner; that the petition is also without merit, lacks substance and requires to be dismissed. It is also the submission of Mr. Ramesh that the 1<sup>st</sup> respondent has filed O.S.12/1992 before the trial Court seeking for recovery of the amount advanced to a partnership firm of which the petitioner is also a partner and because of certain internal conflicts amongst the partners the petitioner has been dragging on the proceedings to ensure that it does not reach its logical conclusion. The learned trial Judge having dealt with sternly the dilatory tactics that was being adopted by the petitioner, the petitioner has come with transfer applications and the present revision petitions. Therefore he prays for dismissal of the above C.R.Ps.

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11.Sri P.R. Ramesh further submits that no untoward incident had taken place in the Court in the course of the proceedings in O.S.12/1992 which suit is filed by the Bank as against the petitioner and others for recovery of certain amount due to the Bank.

12.He submits that in so far as the suit was concerned an attempt was made on the part of the petitioner to drag on the said proceedings by filing I.As in I.A. Nos.43 and 44, one for reopening of the case and another for framing of additional issues. The said I.As having been rejected the petitioner had preferred C.R.Ps 2722 & 2723 of 2000 before this Court. This Court noticing that the application was an attempt on the part of the petitioner to stall the further proceedings in the suit which had virtually reached the stage of arguments and had been posted for judgment as on 31.7.2000 and at that stage the applications had been filed, dismissed the two C.R.Ps deprecating the dilatory tactics on the part of the petitioner observing that the applications



are filed only to halt the process of trial. The learned Counsel drawing the attention of the Court to the orders passed by this Court in the said two C.R.Ps submits that when this is the factual position, the petitioner without any reason or basis has come up with a transfer application in some other case and has filed transfer application in the suit filed by the Bank also. The learned Counsel submits that the transfer application has been rightly rejected and as such C.R.P.2817/01 filed against the order passed in M.A.No.13/2000 deserves to be dismissed confirming the order passed by the District Judge in M.A.13/2000 rejecting the transfer application filed under Section 24 of C.P.C.

13.Sri Srinivas Raghavan, learned counsel appearing on behalf of the 3<sup>rd</sup> respondent in C.R.P.2817/2001 while adopting the very submissions made on behalf of the 1<sup>st</sup> respondent Bank in this C.R.P. in addition submits that the so called alterations said to have been made in the order sheet is absolutely of no consequence either factually or in any other manner in the context



of the transfer application. It is submitted that as on 30.6.2000 the crucial date on which the petitioner alleges that there is interpolation in the order sheet, the defendant closed his case and it is not as though the petitioner has sought for leading further evidence by making a request to the Court on this day. In view of this the learned Counsel submits that neither any significance can be attached to the so called addition of the word "submits" nor can it be contended that it is a deliberate act on the part of the Presiding Officer to add this word to prejudice the case of the petitioner. He further submits that a mere reprimand by the Presiding Officer admonishing the parties to the suit for adopting dilatory tactics cannot lead to an inference of existence of bias on the part of the Presiding Officer as against such party. It is submitted that it is the duty of the Presiding Officer to conduct the proceedings in a proper and fitting manner and if the disgruntled litigant tries to use such a situation and attempts to make out a case of bias or prejudice from out of such an incident the true and real purpose of Section 24 of C.P.C. will be frustrated and



defeated. It is also submitted that the reaction of the learned Presiding Officer in the Court by rebuking a party who had tried to bring pressure on him and conveying message to the parties that they should not resort to such method, cannot be used as a situation to allege bias on the part of the Presiding Officer and if such situation could be made a ground for seeking transfer from that Court, unscrupulous litigants can always create a situation similar in circumstances of this nature and can use it as a ground to seek transfer of the case from the Court. The learned Counsel submits that if such application should be favoured under Section 24 of C.P.C. it will only amount to placing a premium on the unscrupulous litigant and will be a mockery on the justice dispensation system. The learned counsel prays for dismissal of the C.R.P.

14. Let me first deal with the preliminary objection raised by Sri Ravivarma Kumar, learned Counsel regarding the maintainability of the above C.R.Ps. These C.R.Ps are directed



against the order passed by the learned District & Sessions Judge on an application filed under Section 24 of C.P.C. rejecting the same. The objection raised is not as to whether a second application filed under Section 24 of C.P.C. in itself should have been filed before the High Court or as to whether a revision under Section 115 C.P.C. can be filed before the High Court. The reliance placed by Sri Udaya Holla, learned Counsel for the petitioner in the decision reported in 1984 Vol.II KLJ 508 was in the context as to whether a second revision petition under Section 24 in itself can be filed to the High Court on the rejection of an application filed under Section 24 of C.P.C. or whether a C.R.P. under Section 115 C.P.C. can be filed. This Court had ruled that a second application under Section 24 C.P.C. does not lie when an application made under the very provision has already been dismissed by the District Court. As against such an order a revision under Section 115 C.P.C. can be entertained. But, the further objection that is sought to be raised by Sri Ravivarma Kumar appearing for the 4<sup>th</sup> respondent regarding maintainability



is that having regard to the ratio laid down by the Supreme Court in MAHAVEERA PRASAD vs. Pvt. Ltd. AIR 1999 SC 287 a petition of the present nature does not come within the scope of a civil revision petition under Section 115 C.P.C. for the reason that unless the order that is sought to be revised is one which a person against whom the order is passed is able to show that the order if allowed to stand would occasion failure of justice or cause irreparable injury. The learned Counsel for the respondent submits that this is the legal position as per proviso (b) to Section 115 of C.P.C. and in the instant case the impugned order having neither caused any irreparable injury to the petitioner nor is it one causing failure of justice on being allowed to remain undisturbed is not an order which can be revised under the provisions of Section 115 C.P.C. and as such the above C.R.Ps to be rejected outright without going in to any other aspect.

15. The Supreme Court noticed in the case of Mahaveer Prasad Sing vs. Jacks Aviation Private Ltd., that on the peculiar



facts of that case the order complained and which was sought to be revised before the High Court was an order which was passed entirely due to the conduct of the Counsel for the petitioner and as it was a case where the counsel who was representing the petitioner did not want the trial Court to proceed with the case and withdrew from further appearance in the case and in fact wanted to prevent the judicial process from taking its natural course, such a person absolutely had no occasion to come up before the High Court and complain in its revisional jurisdiction, the order passed by the trial Court had neither resulted in failure of justice nor would cause irreparable injury. The entire proceedings arose in the context of an application filed under Section 151 C.P.C. before the trial Court where the suit was pending praying for the Court either to suo motu transfer the suit to any other Court or in the alternative to adjourn the matter to a future date without passing any adverse order against the applicant, to enable the defendant applicant to move an application under Section 24 C.P.C. before the Hon'ble District Judge for transfer of the case to any other



Court. The said application came to be dismissed by the trial Court. It was against the order passed on such an application the High Court had been moved in its jurisdiction under Section 115 C.P.C. and the High Court had entertained the revision and the matter had been pending before the trial Court. It was during the pendency of such revision petition before the High Court the appellant moved the Supreme Court, inter alia complaining that the High Court did not have jurisdiction to entertain the revision petition in respect of an order and of the nature indicated above. The Supreme Court has observed that the order having been passed in a matter pending before the trial Court, proviso to Section 115 was attracted and unless the order fell under either of the two categories, namely Clause (a) or (b) of the proviso to Section 115 C.P.C. the High Court could not have entertained the civil revision petition and in that context ruled that the High Court has no jurisdiction to entertain the civil revision petition.



16. In the instant case the impugned order is an order passed on a petition filed before the District Judge under Section 24 C.P.C. and in a proceeding independent of O.S.92/98 which was pending before the trial Court which was sought to be transferred. It cannot be said that the impugned order, passed by the learned District Judge under Section 24 C.P.C. is an order passed in a pending proceedings in a suit, though the prayer in the application under Section 24 is for transferring the pending suit to some other Court which has jurisdiction. The order cannot be characterised as an order passed in the pending suit itself. If this is so, the proviso to Section 115 C.P.C. is not attracted and as such the preliminary objection sought to be raised on behalf of the respondent cannot be accepted. The ratio laid down by the Supreme Court in the case of Mahaveer Prasad Singh vs. Jacks Aviation Pvt. Ltd., is not attracted to the facts of the present case. Accordingly the preliminary objection is rejected.



17. But it still remains that the revision petition in itself being under Section 115 C.P.C. interference with the order can only be if the revisional Court finds that the subordinate Court has exercised jurisdiction not vested in it by law or (b) to have failed to exercise its jurisdiction or to have acted in the exercise of its jurisdiction illegally or with material irregularity. It is only if the order impugned falls into any one or the other of these it is amenable to the revisional jurisdiction of the High Court under Section 115 of the Code of Civil Procedure 1908. These Revision Petitions are required to be examined in the light of these requirements.

18. The petitioner had made the application for transfer before the District Court under Section 24 of the C.P.C. Section 24 of the C.P.C. reads as under:-

“General power of transfer and withdrawal:-  
(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its



own motion without such notice, the High Court or the District Court may, at any stage -

- (a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or
- (b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and
  - (i) try or dispose of the same; or
  - (ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or
  - (iii) re-transfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which is thereafter to try or dispose of such suit or proceeding may, subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred or withdrawn."



19. The power under Section 24 is conferred on the High Court and the District Court and the power of transfer can be exercised by these Courts at any stage either to transfer a suit or appeal pending before itself to any other Court subordinate to it and competent to try the same or to withdraw any suit or appeal pending before any Court subordinate to it and to transfer it to any other competent Court or to try and dispose off the same by itself. In the instant case, the application was to transfer the pending suits to any other competent Court on the ground of bias against the petitioner apprehended by the petitioner as perceived in his mind and by the Presiding Officer.

20. The Section itself does not indicate the circumstances and on what all aspects the power of transfer can be exercised. But it is a settled legal principle that an element of bias on the part of the Presiding Officer as against any of the parties to the proceedings is a valid and justifiable ground enabling the affected person to seek for transfer of the proceedings to any other Court.



In the instant case, the ground urged in support of the transfer application is the existence of such bias on the part of the Presiding Officer as against the petitioner. The discussion in this order will be confined to this aspect of the matter.

21. One more important aspect of the provisions of Section 24 of the C.P.C. is that the power of transfer is conferred on High Court or the District Court; Courts which normally exercise appellate or supervisory jurisdiction in the scheme of procedure envisaged under the provisions of the Code of Civil Procedure. The power is conferred on a higher judicial forum. While it is an accepted judicial norm that the Judges of the higher Judiciary have the choice to hear a matter in the sense that the Judge himself can recuse from the case and direct the matter to be posted before any other Judge/s if the learned Judge has the feeling that one of the parties to the proceeding may have a reasonable apprehension of bias if the proceedings should go on before the particular Judge, may be for a variety of reasons such as a previous acquaintance of

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one of the parties to the proceedings with the Judge which may give rise to a reasonable apprehension of bias on the part of the other party, irrespective of the fact as to whether the Judge is really biased or not; the learned Judge having earlier dealt with the subject matter of the proceedings before the Court, having been involved in the proceedings at an earlier stage in any capacity. A classic example being a Judge shall not sit in appeal over his own judgment, order or decision or even the learned Judge having expressed his views earlier in respect of the subject matter before him in any other context. But, in so far as the proceedings before the Trial Courts are concerned, it is strictly determined as per the provisions of the Code, particularly having regard to the provisions of Sections 15,16,17,18, 19 and 20 of the Code of Civil Procedure. What needs to be observed and pointed out in the scheme of the Code of Civil Procedure is that the Judges of the subordinate judiciary, do not have the power to recuse themselves from the suit or proceeding pending before the Court over which they preside.



22. The concept of recusation, though has its root in religion and ecclesiastical law, it developed into a legal principle under the common law in England in the context of trial by Jury and when some of the jurors were being challenged on the ground of interest and prejudice on the part of the juror, vis-à-vis, the accused or subject matter before them and has come to stay as a well-recognised and accepted legal principle based on the phenomenon of bias. In fact, the circumstances and situations giving cause for a reasonable apprehension of bias or prejudice, have got enlarged and it is now a well-accepted legal norm that the Judges of the higher Judiciary do not hear such cases where one of the parties to the proceedings may have a reasonable apprehension of bias operating against them having a bearing on the outcome of the proceedings because of some relationship of the Presiding Officer either with any of the parties or the earlier familiarity by the Presiding Officer with the subject matter of the proceedings before him. This is not so much because the particular Judge is actually



prejudiced or not, but having regard to the higher legal principle that justice should not only be done, but also appear to have been done and that no party should go with a feeling that his case did not receive the due and just attention because of the biased mind on the part of the Presiding Officer. Even while having these principles in the background, the fact that a petition or an application under Section 24 C.P.C. is entertained and decided by a person other than the one before whom proceedings in the nature of suit is going on and the apprehension of bias is expressed against the Presiding Officer of the Court before whom the original suit is pending cannot be lost sight of. The importance of this aspect lies in the fact that the transfer application is considered by a Judge who could be termed as an outsider or third party to the proceedings, which are sought to be made subject matter of transfer application and the person is with a judicial bent of mind, trained and well-versed with legal proceedings and has an objective view of the matter in assessing the merits of an application for transfer. The importance lies in the fact that the



Judicial Officer who has to pass an order on an application under Section 24 of the Act as in the instant case being a District Judge, is a third person in so far as the allegation of bias or an element of prejudice is complained of and can examine the application objectively and as a third person who is himself not involved in the proceedings. This is an important safeguard and will have to be kept in mind always.

23. Sri. Udaya Holla, learned Counsel for the petitioner has submitted that the learned District Judge should have approached the problem by substituting himself in the petitioner's place and should have answered the question as to whether the learned Trial Judge was biased against the petitioner on an examination from such an angle and not merely either as indicated by the learned Trial Judge himself that he had an open mind in respect of the proceedings or as to whether he was really prejudiced or not. The learned Counsel for the petitioner, in support of this submission, relied upon a decision of the Supreme Court in AIR 1966 SC 1418 (GURUCHARAN DASS CHADHA V. STATE OF



RAJASTHAN) where it has been observed by the Supreme Court that a reasonable apprehension in the mind of the party is sufficient for transfer of a case. It is precisely this question which is required to be answered in the present case also namely as to whether the apprehension of bias expressed on the part of the petitioner can be said to be a reasonable apprehension of bias. In this context, the learned Counsel for the petitioner has relied upon another decision of the Supreme Court in AIR 1987 S.C. 2386 (RANJIT THAKUR V. UNION OF INDIA & ORS.) wherein it has been indicated that the test for determination of a 'reasonable apprehension' on the part of a litigant should be approached from the litigant's point of view and not from a judge's own perception. It is no doubt true that the apprehension of bias is on the part of a person who expresses such apprehension as a cause for the person and his case not receiving the due treatment it deserves, but at the same time, as had been noticed by the Supreme Court in these two cases, such apprehension should be a reasonable apprehension which arises in the facts and circumstances of the case. The



existence of bias or otherwise, being dependent on the mind of the Judge and the attitude of the Judge, in the totality of the circumstances is a state of mind on the part of the Presiding Officer and rarely a phenomenon which is capable of being determined by applying objective parameters. At the best, one has to infer the existence or otherwise of bias on the part of the Presiding Officer from the circumstances, the conduct and as to whether it can indicate a reasonable apprehension of bias to be entertained on the part of the person alleging the same. The second limb of submission on behalf of the petitioner namely that the test as to whether the apprehension of bias prejudicing the case of the petitioner, is to be approached from the view point of the petitioner and not from the other angles, may not have much relevance in the present context inasmuch as it is not the same as the very Presiding Officer against whom an apprehension of bias or prejudice is alleged is examining the allegation of bias. The complaint of bias by the petitioner which the petitioner apprehends to operate against him and the outcome of the



proceedings being adverse to his interest, if the same Presiding Officer continue to hear the matter, is being examined by the learned District Judge, who is an outsider in the sense that the element of bias cannot be levelled against the person examining the application under Section 24 of the C.P.C. and as such, as an objective approach to the question. I am of the view that the decision relied on by Sri. Udaya Holla, learned Counsel for the petitioner, does not support or advance the case of the petitioners on this aspect of his submission.

24. This takes us to the real question as to whether the apprehension of bias expressed by the petitioner as against the learned Trial Judge could be of influence on the Presiding Officer before the Trial Court, is a reasonable apprehension of bias or not.

25. Sri. Udaya Holla, learned Counsel for the petitioner has relied upon two circumstances to indicate a biased mind on the part of the Presiding Officer. The first aspect is that the learned



Trial Judge had conducted in a manner unbecoming of a Presiding Officer in the Court and had abused and rebuked the petitioner in the course of the proceedings using very strong language and this in itself had given rise to the reasonable apprehension of bias on the part of the petitioner that if the same learned Judge should continue to hear the matter, petitioner's case may suffer.

26. The second and more important circumstance according to the learned Counsel for the petitioner is that the learned Trial Judge has caused certain interpolations in the order sheet maintained by the Court in the proceedings which interpolations, according to the submission of the learned Counsel for the petitioners, is only a deliberate insertion or modification of the contents of the order sheet by the Presiding Officer for the purpose of foreclosing options open to the petitioner in the trial, done deliberately by the Presiding Officer to cause damage to the petitioners' case, which in itself clearly reveals a biased mind operating against the petitioner. It is in this context, the learned



Counsel has pressed into service the application for production of additional evidence before this Court and it is the submission of the learned Counsel that the petitioners had obtained copies of the order sheet at two different points of time and a mere perusal of the order sheet on these two different dates clearly indicates that there are certain words added subsequent to the issue of the certified copy of the order sheet on an earlier occasion and the learned Counsel submits that if this is to be accepted as evidence of existence of deliberate act on the part of the Presiding Officer to alter the order sheet in the case at a subsequent point of time from what was noted originally, then it is a very serious matter which conclusively establishes a biased approach on the part of the Presiding Officer necessitating the transfer of the cases to any other competent Court.

27. The learned Counsel also submits that it is a very important aspect, particularly having regard to the need for maintaining sanctity of judicial proceedings and the need to



maintain the accuracy and sanctity of the order sheet in a case which is recorded on day-to-day basis. In this regard, the learned Counsel has placed reliance on a decision of the Supreme Court reported in AIR 1998 SC 2050 (STATE OF WEST BENGAL & ORS. V. SHIVANANDA PATHAK & ORS.). The Supreme Court had occasion to observe in para 23 of the judgment as under:-

“All judicial functionaries have necessarily to have an unflinching character to decide a case with an unbiased mind. Judicial proceedings are held in open court to ensure transparency. Access to judicial record by way of inspection by the litigant or his lawyer and the facility of providing certified copies of that record are factors which not only ensure transparency but also instil and inspire confidence in the impartiality of the Court proceedings.”

28. The first ground urged in support of the application for transfer is the existence of bias based on the conduct of the Presiding Officer. The learned Counsel for the petitioner has contended that the outburst of the Presiding Officer in the course of the proceedings, in the conduct of the trials of the suit and using



strong and foul language against the petitioner by the Presiding Officer in itself reveal such bias mind giving scope for apprehension of bias in the mind of the petitioner. This ground had been urged before the learned District Judge also. The entire incident is referable to the proceedings of the Court as on 26.7.2000. The learned District Judge has found on this aspect that while the version of the petitioner is that the Presiding Officer rebuked and used foul language as against the petitioner in the course of the proceedings as on 26.7.2000, the learned Counsel appearing for the other parties on the other hand have indicated that the learned Presiding Officer did not use any such foul language excepting that the petitioner was warned against resorting to dilatory tactics and protract the proceedings and was also warned against bringing any out side pressure on the Court to accede to the request of the petitioner for granting adjournments. The learned District Judge in this regard has recorded a finding as under:-



"In fact, we have the version of the petitioner that he was abused in abusive language by the Presiding Officer and the P.O and contesting respondents have stoutly denied it. Out of the two versions what seems to me that there is no truth in the petitioner's say. No doubt, there might have been warnings by the P.O. to the petitioner that he should not influence him."

29. The learned District Judge has further held that except that the petitioner had alleged that he apprehends bias on the part of the Presiding Officer, the petitioner was not in a position to provide any other material in support of such allegations. The question is as to whether the incident had given rise to a reasonable apprehension in the mind of the petitioner based on the incident narrated by the petitioner, said to have taken place as on 26.7.2000 and as to whether the apprehension is a reasonable apprehension in the circumstances. The learned District Judge has clearly indicated that the very basis for making the allegation of bias namely the use of harsh language by the Presiding Officer against the petitioner is not proved. Even assuming that the



Presiding Officer has used strong language and assuming the same in favour of the petitioner, the question is whether the circumstance indicates that it had given rise to a reasonable apprehension of bias on the part of the petitioner as against the Presiding Officer.

30. The trial Court was examining the applications under I.As 42, 43 and 44 filed in O.S.12/1992 as on 26.6.2000. The applications were for reopening of the case of the petitioner and for framing additional issues in the suit.

31. The learned Trial Judge observed that the relief sought for in such applications had already been granted on 21.6.2000 and 26.6.2000 and as such rejected the applications as unnecessary. He also observed that the arguments on the main suit was already heard and accordingly posted the suit for further arguments to 27.6.2000. The case was taken up further on 28<sup>th</sup> and 29<sup>th</sup> and further arguments were heard on 29.7.2000 and was posted for judgment. In fact, it appears, the learned Trial Judge

had dictated Judgment partly as on 31.7.2000 and while so, application I.A.45 was filed on 1.8.2000 praying for an adjournment. The matter being inconclusive as on that date, the case had been adjourned to 8.8.2000.

32. The petitioner had preferred two C.R.Ps.2720 and 2723 of 2000 as against the order dated 26.7.2000 passed by the Trial Court rejecting I.As. 42 and 44 filed for reopening the case and for framing additional issues.

33. These two C.R.Ps. came to be dismissed by this Court as per order dated 23.2.2001, interalia observing that the Trial Court was fully justified in rejecting such applications which were being filed only to retard the proceedings before the Trial Court.

34. What is obvious from a perusal of the proceedings before the Trial Court and by the orders passed by this Court in the C.R.Ps. is that O.S.12/92 was a suit which was pending before the Trial Court for about eight years by then and had reached the stage of pronouncement of judgment. The developments in the



case clearly indicate that there was an effort on the part of the petitioner to stall and prolong the proceedings. However, there was absolutely no allegation of bias or prejudice made against the Presiding Officer during this period. The petitioner has based the so-called incident on 26.7.2000 alone to be a ground for transfer of the case and as the basis for his apprehension of bias. Petitioner's version is not believed by the learned District Judge. The petitioner has not been successful in his attempts to prolong the proceedings any further and at this stage, has come up with the transfer applications. The apprehension of bias expressed on the basis of an incident which is said to have taken place in the course of the proceedings on 26.7.2000 in respect of which the version of the petitioner is also not believed by the learned District Judge, can never be said to have given the cause for formation of a reasonable apprehension that the Presiding Officer is biased against the petitioner. It should be borne in mind that the reasonable apprehension of bias on the part of a litigant should be a 'bonafide, reasonable apprehension' and not a mere apprehension



of the litigant that can be the basis to order transfer of the pending case in the exercise of the power under Section 24 of the Code. The examination of the existence of such apprehension though requires to be decided from the point of the person expressing apprehension, nevertheless if extended to an extreme extent will result in the anomalous situation that whenever a litigant comes up before the Court in an application filed under Section 24 of the Code of Civil Procedure, that the applicant has a reasonable apprehension of bias operating against him by the Presiding Officer of the Court being prejudiced against him, then the version of the applicant has to be automatically accepted and the transfer application allowed.

35. This cannot be and is not the object of Section 24 CPC.

Until and unless the Court is satisfied that the apprehension of bias or prejudice which a litigant expresses is a bona fide and reasonable expression of apprehension which is proved by the circumstances and material placed by such applicant before the



Court where the application is moved, an application of this nature cannot be automatically ordered.

36. On an examination of the entire material on record and on the application of the relevant case law, as is sought to be relied upon by the learned Counsel for the petitioner and respondents, I am of the clear view that there was absolutely no scope to venture that the petitioner had entertained a reasonable and bona fide apprehension of bias operating against him by the so-called conduct of the Presiding Officer in the light of the incident said to have taken place during the proceedings before the Trial Court as on 26.7.2000. The learned District Judge was fully justified in rejecting the application filed under Section 24 CPC on this ground.

37. The other ground urged in support of the transfer application in this revision petition by Sri. Udaya Holla, learned Counsel for the petitioner is the so-called interpolation or



manipulation of order sheet by the Presiding Officer. It is in this regard that certain additional material is sought to be placed before this Court through an application under Order 41 Rule 27 C.P.C. The entire basis of this allegation is that the so-called interpolations/additions can have a far reaching effect on the petitioner's case before the Trial Court and it has been done with a deliberate design to hurt petitioner's interest in the case. According to Sri. Udaya Holla in the orders sheet recorded in the order sheet by the Presiding Officer as on 30.6.2000, there are additions in two places in the order of this day by a subsequent correction; that even in the order dated 5.7.2000, there is such a correction made; that similar corrections at two places are made in the order dated 6.7.2000. There are such corrections made even in the order dated 7.7.2000, 10.7.2000, 11.7.2000 and also in the order dated 12.7.2000. Even assuming for argument's sake that there are certain corrections in these orders, such corrections by themselves will not lead to any inference that the corrections are done subsequently and by design or that it is intended to harm the



interest of the petitioner in any manner. The allegation is a very serious one. Even by comparison of the order sheet with and without corrections, material outcome of the proceedings did not get altered in any manner. The day-to-day proceedings of the Court have gone on in the manner narrated and indicated in the order sheet. What is material in the course of the development was that there was a change of Counsel by the petitioner and his previous Counsel retired with the permission of the Court as on 5.7.2000 and another Counsel has continued his appearance in the place of the retiring Counsel. Yet another Counsel by initial "G.D." has also filed power for the petitioner as on 10.7.2000 and it was on 26.7.2000 that applications I.As.42, 43 and 44 came to be filed. These applications have been rejected by the Trial Court and the revision petitions filed before this Court as against the order rejecting these I.As., also came to be dismissed on 23.2.2001 as noticed earlier. In the circumstances, there is absolutely no scope to infer that the corrections, assuming if any made in the order sheet, was either deliberate or was intended to adversely



affect the case of the petitioner. In fact with or without such corrections, there is no difference in the outcome of the proceedings and the corrections, even assuming to have been made subsequently, have not at all brought any material alteration to the effect and meaning of the orders passed. In effect, these corrections, assuming have been done subsequently, without going into the correctness or otherwise of the same, have no bearing at all on the outcome of the case and by themselves have not affected the interest of the petitioner in any manner. When the very basis of the allegation is that the correction is deliberate and designed to harm the interest of the petitioner and the Presiding Officer has made the same with ulterior motive and when once it is found that these allegations have absolutely no substance and on the face of it not tenable, the question of making themselves as a ground for seeking transfer of the pending suit before the Trial court to any other Court on the ground of existence of bias or prejudice against the petitioner and on the part of the Presiding Officer, does not



arise. This ground urged in support of the transfer of the petition fails totally and is also rejected.

38. Sri. Udaya Holla made yet another submission that while the matter was pending before the District Court, the learned District Judge had occasion to call for the reaction of the Trial Judge in the light of the allegations made in the transfer application and that while responding to such a communication from the learned District Judge, the learned Trial Judge had indicated that he was not very keen on proceeding with the trial of the suit in which the petitioner figured as a defendant and who had made several allegations against him and that he had expressed that he had no wish to take up or continue either the suits or the particular appeal R.A. No.2/01 which had been filed by the petitioner and had by his letter addressed to the learned District Judge, had requested him to transfer the cases in which the petitioner figured as a party, to some other Court. Learned Counsel, placing reliance on the contents of the letter from the



learned Presiding Officer of the Trial Court, submits that when the Presiding Officer himself had expressed his desire and willingness to have the cases transferred to any other Court, the learned District Judge ought to have acted on the same and ought to have transferred the case to any other competent Court and has committed a jurisdictional error in declining to act by rejecting the transfer application. Learned Counsel further submits that it is the highest tradition practised by the Presiding Officers to recuse themselves from hearing a case in which one of the parties has expressed an element of bias operating against him and when the learned Trial Judge was himself ready and willing to withdraw from the case, the learned District Judge ought to have allowed the application under Section 24 CPC and ought to have transferred the suits to any other competent Court. It is submitted that based on this very material, there was need and justification for transferring the case to any other competent Court and as such the order passed by the learned District Judge is to be set aside by allowing those revision petitions and order the transfer of the suits



pending before the Court of Civil Judge (Senior Division), Chickmagalur to any other competent Court.

39. The submission of the learned Counsel does not appeal to me. In this context, the records were also called for and I have perused the same. It is no doubt true that the learned Presiding Officer of the Trial Court has expressed in his communication addressed to the learned District Judge while offering his response in the context of the allegations made in the transfer petition that he has no objection for the suits being transferred to any other Court and he is ready and willing to withdraw from the hearing of the case any further. A correspondence in this regard between the learned District Judge and the learned Presiding Officer of the Trial Court is on the administrative side and it may not be very appropriate for this Court to take note of the contents of this correspondence while exercising revisional jurisdiction under Section 115 C.P.C and for examining the correctness or otherwise



of the order passed by the learned District Judge on the touchstone of the provisions of Section 115 CPC.

40. This aspect apart, if the learned Trial Judge has indicated that he is ready and willing to recuse from the case, it only indicates that the learned Trial Judge is keen to uphold the traditions of the Judiciary and that he is not keen on holding on to the conduct trial of a particular case. This Court would place its appreciation to the just response by the learned Presiding Officer of the Trial Court. But the question before this Court is not as to whether that constitutes a ground for transfer or as to whether the learned District Judge has committed any error in the light of the contents of the letter from the learned Presiding Officer of the Trial Court to the learned District Judge. Though the learned Counsel sought to make this ground to attack the correctness or otherwise of the order passed by the learned District Court and as a ground in support of these C.R.Ps., the question does not really arise for consideration in these C.R.Ps. The real question is as to



whether there was sufficient ground for passing a positive order by the learned District Judge while considering the applications under Section 24 CPC before him. The only ground relevant and germane for considering such an application and as was contended is, the existence of a real, genuine, bona fide and reasonable apprehension of bias in the mind of the applicant as a result of the conduct of the learned Trial Judge in the proceedings before him. There is no other consideration in the examination of the correctness or otherwise of an order passed under Section 24 of the CPC.

41. I have already discussed about this aspect and I have indicated that the so-called apprehension of bias in the mind of the petitioner seeking for transfer of the cases on the premise that the learned Trial Judge is biased and prejudiced against the petitioner, is neither a reasonable apprehension nor a bona fide apprehension arising out of the facts and circumstances of the case and in the course of the proceedings. When once the apprehension of bias is



not bona fide and reasonable, transfer application should be rejected. It is not merely the legal principle that justice should not only be done but it should seem to be done is involved in this case, but also the larger question of judicial discipline, respect for the judicial system and avoidance of reckless and irresponsible allegations on the part of the litigant public that is involved in applications of this nature.

42. It is the duty of this Court to frown upon frivolous, untenable and irresponsible allegations of bias and prejudice levelled against the Presiding Officers of the Trial Court by disgruntled and chronic litigants, dissatisfied by the failure of their efforts in procuring favourable orders. It is the function of the Court and the duty of a Presiding Officer to decide a case objectively and in the light of the facts and circumstances of the case and on the application of the relevant legal principles. A Judge cannot please all parties before the Court. In our legal system, it is inevitable that the decision goes against one party or



another. It is also possible that the proceedings may be pending for a fairly long duration and even by the deliberate efforts of one of the parties to the suit who may know the weakness of his case. A dissatisfied litigant may try to thwart the course of justice when once the trend of the decision becomes clear to him and if it is likely to be adverse to his interest, by resorting to dilatory tactics or even by resorting to filing applications under Section 24 CPC to ensure that the matter is taken out of the hands of a particular Presiding Officer. It is very necessary for the Courts to examine the allegations in support of an application seeking for transfer made under Section 24 CPC objectively, impassionately and in the totality of the circumstances. A disgruntled litigant cannot be allowed to use the provisions of Section 24 CPC as a weapon against the Presiding Officers and immobilise him when his ego is hurt. Applications of such nature should be dealt with appropriately by the higher Courts.



43. Though I have looked into the material sought to be brought on record before this Court through an application filed under Order 41 Rule 27 to satisfy myself as to whether there was any scope at all for this Court to interfere with the order passed by the subordinate Court, in the exercise of revisional jurisdiction under Section 115 C.P.C. on the merits of the application. I do not see any case made out for entertaining an application of this nature while exercising revisional jurisdiction. For the purpose of record I.A. for production of additional evidence is dismissed.

44. On an examination of the entire material on record and on examination of the elaborate submissions by the learned Counsel appearing for the parties in the case, I am fully satisfied that these C.R.Ps. deserve to be dismissed.

45. This Court did seriously consider the question of taking appropriate action against the petitioner for levelling reckless and serious allegations against the Presiding Officer of the Court and



for the purpose of achieving his object of prolonging the proceedings and for ensuring that the cases are taken out of the hands of the learned Trial Judge. While I have given the benefit of doubt in favour of the petitioner and I am not inclined to initiate any further proceedings as against the petitioner in these C.R.Ps., the conduct of the petitioner is strongly deprecated and disapproved. In the circumstances, I deem it fit to dismiss the petitions by merely levying costs on the petitioner at a sum of Rs.2,000/- in each of these petitions, to be apportioned equally amongst the respondents.

46. Accordingly, these C.R.Ps. are dismissed with costs of Rs.2,000/- in each of these petitions to be apportioned equally amongst the respondents.

**Sd/-**  
**Judge**

Gcs/  
Vb/-