

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN

C.P.L.A. No.19/2010

**Before:- Mr. Justice Muhammad Nawaz Abbasi, Chief Judge
Mr. Justice Syed Jaffar Shah, Judge
Mr. Justice Muhammad Yaqoob, Judge**

Amir Shah S/O Jan R/O
Buranja, Tehsil Punial
District Ghizar

.....

Petitioner

Versus

Mst. Khosh Joor W/O Gairat Shah
Gairat Shah S/O Manwar Shah
R/O Buranja Tehsil Punial
District Ghizar

..... Respondents

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT AND SELF GOVERNANCE) ORDER 2009 READ WITH SUPREME APPELLATE COURT RULES 2008 AGAINST THE IMPUGNED ORDER DATED 19-05-2010 PASSED BY CHIEF COURT GILGIT-BALTISTAN IN C. MISC. NO.21/2010 (TRANSFER PETITION) WHEREBY THE LEARNED CHIEF COURT DISMISSED THE PETITION.

Present: Mr. Johar Ali Advocate, for the petitioner

Date of hearing: 05-08-2010

ORDER.

This petition has been directed against the order dated 19-05-2010 whereby the application filed by the petitioner for transfer of Civil suit pending in court of Civil Judge Punial/Ashkoman to another court of competent jurisdiction, has been dismissed. The sole ground urged in the application for transfer of case was that Mst. Khush Joor respondent in the suit using filthy language/misbehaved with the petitioner in the open court but the learned Civil Judge did not take any notice of the conduct of respondent in the court and the attitude of the presiding officer of silent

spectator not only encouraged the respondent but also disgraced the court, therefore the petitioner has lost confidence in the independence of learned trial judge. The additional ground taken by the petitioner before us in support of this petition is that after dismissal of the transfer application by the Chief Court, learned Trial Judge having developed bias against the petitioner issued his non bailable warrants of arrest on a date, for his absence and this act of the Presiding has seriously reflected upon his independence and fair treatment.

This is correct that reasonable apprehension in the mind of a litigant about the unfairness or bias of the presiding officer of the court is considered a valid ground for transfer of case, but mere apprehension is not sufficient to doubt the independence of the presiding officer of the court. The misbehavior of a party in the court may render such party liable to be proceeded against for appropriate action in accordance with law but it may not be a good or a valid ground for transfer of case from one court to another court.

This is not ordinary practice in Civil Proceeding to issue bailable or non bailable warrants to secure the attendance of a person unless there is legal compulsion to use the curative measures for the attendance of a person, However there is nothing on record to show that for what reason non bailable warrants of the petitioner were issued, and further this second ground relates to the period subsequent to the dismissal of transfer application of the petitioner by the Chief Court, in which no comments can be offered without examination of record.

This petition is therefore disposed off with the observation that petitioner may if so advised approach the Chief Court afresh.

Disposed off.

Chief Judge

Judge

Judge

