



2026:AHC:97432

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD
TRANSFER APPLICATION (CIVIL) No. - 140 of 2026

M/s Virola International

.....Applicant(s)

Versus

Smt. Sunita Sachdeva and 3 Other

.....Opposite Party(s)

Counsel for Applicant(s)	: Rishabh Agarwal
Counsel for Opposite Party(s)	: Ajay Kumar Pandey

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Anil Tiwari, learned Senior Counsel appearing along with Sri Rishabh Agarwal, for the applicant and Sri Rakesh Pande, learned Senior Counsel appearing along with Sri Ajay Kumar Pandey, for the opposite parties.

2. The present transfer application has been preferred by the applicant/appellant under Section 24 of the Code of Civil Procedure, 1908¹, seeking transfer of proceedings arising out of Arbitration Appeal No.15 of 2025, instituted under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996, presently pending before the Court of Presiding Officer, Commercial Court No. 1, Agra. The principal relief sought is for transfer of the said proceedings to the Court of Commercial Court No. 2,

¹ CPC

Agra, or to any other court of competent jurisdiction, in order to secure a fair, impartial and unbiased adjudication of the dispute.

3. A supplementary affidavit has also been filed on behalf of the applicant bringing on record certain additional facts. Counsel for respondent no.1 has filed a short counter affidavit placing on record the order-sheets of the case in question. Counsel for the applicant has stated that no rejoinder affidavit was required, inasmuch as only order-sheets were being brought on record.

4. The dispute arises out of a commercial transaction between M/s Virola International (applicant/appellant) and Smt. Sunita Sachdeva (respondent). The respondent invoked arbitration by instituting Arbitration Case No. 06 of 2023 before a learned Sole Arbitrator, seeking recovery of substantial amounts towards alleged capital balance and unsecured loans. Along with the statement of claim dated 28.11.2023, an application under Section 17 of the Arbitration and Conciliation Act, 1996 was also filed seeking interim directions for payment of approximately Rs.15.85 crores along with interest.

5. The applicant entered appearance before the learned Arbitral Tribunal and contested the proceedings, including filing objections to the application under Section 17. The learned Arbitral Tribunal, by order dated 06.07.2024, partly allowed the said application and directed the applicant to pay a sum of Rs.8,88,75,863/- towards capital balance and Rs.5,95,99,772/- towards unsecured loans.

6. Aggrieved thereby, the applicant preferred an appeal under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 before the Commercial Court at Agra, which was registered as Arbitration Appeal No. 15 of 2025. Along with the appeal, an application for interim stay of the impugned arbitral order was also filed. The respondent entered appearance and filed objections, to which the applicant filed a rejoinder.

7. Learned counsel for the applicant submits that the case has been listed on several dates before the Court of Presiding Officer, Commercial Court No. 1, Agra. It is contended that on earlier dates, i.e., 09.12.2025

and 20.12.2025, despite the presence of the applicant's counsel, arguments were not advanced on behalf of the respondent. It is further submitted that the case was thereafter fixed for 11.02.2026, on which date the applicant's counsel sought a short adjournment on account of personal difficulty. According to the applicant, notwithstanding the said request, the learned court proceeded to hear the respondent and fixed the proceedings for further hearing on behalf of the applicant.

8. It is further stated that, while fixing the next date, an oral observation was made by the learned Presiding Officer to the applicant's representative (*paurokar*) to the effect that arrangements be made for payment to the respondent. According to the applicant, such observation, in the backdrop of the ongoing adjudication of the stay application and appeal, has given rise to a reasonable apprehension in their mind that the matter may not receive an impartial consideration.

9. In the aforesaid circumstances, the applicant submits that the cumulative effect of the proceedings, particularly the sequence of hearings coupled with the aforesaid observation, has led to a *bona fide* and reasonable apprehension regarding the neutrality of the forum. It is, therefore, in the interest of justice that the proceedings be transferred to another competent court to ensure that justice is not only done but is manifestly seen to be done.

10. Learned counsel for the applicant submits that the present transfer application is not an attempt to seek a forum of choice, but is necessitated to preserve the fairness and integrity of the judicial process. It is submitted that, in the circumstances aforesaid, continuation of proceedings before the same forum has become impracticable from the standpoint of maintaining confidence in the adjudicatory process.

11. The principal ground urged by the applicant is that the aforesaid oral observation, made during the pendency of the stay application and the appeal, has created an impression in the mind of the applicant that the issues involved may stand prejudged. The apprehension, it is

contended, is not founded on mere conjecture but on a tangible circumstance which bears upon the perception of impartial adjudication.

12. Relying upon the decision in **Maneka Sanjay Gandhi v. Ram Jethmalani**², it is urged that assurance of a fair trial is an integral facet of Article 21 of the Constitution, and any circumstance giving rise to a reasonable apprehension in the mind of a litigant would warrant transfer of proceedings. It is submitted that the test is not whether actual bias exists, but whether the situation is such as would lead a reasonable person to apprehend that justice may not be done.

13. Learned counsel further submits that the settled legal position is that even an appearance of bias or a perceived predisposition is sufficient to erode the confidence of a litigant in the judicial process. In this regard, reliance is placed upon **P.K. Ghosh v. J.G. Rajput**³ and **State of West Bengal v. Shivananda Pathak**⁴, to contend that the test is not whether bias has in fact influenced the decision, but whether there exists a reasonable apprehension in the mind of a party that justice may not be done. It is, therefore, submitted that where circumstances give rise to such apprehension, the Court ought to exercise its power of transfer to preserve the fairness and credibility of the adjudicatory process.

14. Reliance is placed upon **Kulwinder Kaur v. Kandi Friends Education Trust**⁵ to submit that the power of transfer under Section 24 CPC is wide and is to be exercised wherever it is expedient in the interest of justice. It is urged that, in the facts of the present case, the sequence of proceedings coupled with the alleged observation has given rise to a *bona fide* and reasonable apprehension in the minds of the applicant, warranting transfer to another competent court so as to ensure that justice is both done and seen to be done.

15. Drawing support from **Ranjit Thakur v. Union of India**⁶, it is contended that the governing test is that of “real likelihood of bias”,

2 (1979) 4 SCC 167

3 (1995) 6 SCC 744

4 (1998) 5 SCC 513

5 (2008) 3 SCC 659

6 (1987) 4 SCC 611

namely, whether a reasonable person would apprehend a predisposition in the mind of the adjudicating authority. Impartiality, it is submitted, constitutes the very foundation of adjudication, and even an appearance of bias is sufficient to vitiate the proceedings.

16. Reference is also made to **State of Punjab v. V.K. Khanna**⁷ to contend that fairness in adjudicatory or administrative action is synonymous with reasonableness, and that bias, being a facet of *mala fides*, vitiates such action. While *mala fides* must ordinarily be supported by cogent material, it is urged that a predetermined approach or failure to apply an independent mind may itself indicate bias.

17. In addition, reliance is placed upon **Allinson v. General Council of Medical Education and Registration**⁸ to submit that in cases of non-pecuniary bias, the relevant test is whether a reasonable and informed person would apprehend bias, and that a substantial likelihood of partiality is sufficient to vitiate the decision.

18. Lastly, **Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon**⁹ is cited to contend that justice must not only be done but must also appear to be done, and that even the appearance of bias, judged from the standpoint of reasonable persons, is sufficient to invalidate the proceedings.

19. Opposing the present transfer application, learned counsel for the respondent submits that the same is wholly misconceived and has been instituted with the sole object of delaying the proceedings in the pending arbitration appeal. It is contended that no legally sustainable ground has been made out for exercise of powers under Section 24 of the Code of Civil Procedure, 1908, as there is no material on record to indicate any real likelihood of bias on the part of the Presiding Officer.

20. Referring to the order-sheets forming part of the record, it is urged that the conduct of the applicant reflects a consistent pattern of seeking repeated adjournments on varying and untenable grounds, thereby

7 (2001) 2 SCC 330

8 (1894) 1 QB 750

9 (1969) 1 QB 577

delaying the proceedings. The learned Commercial Court has recorded that on multiple dates, including 17.10.2025, 31.10.2025, 21.11.2025, 09.12.2025 and thereafter on 17.02.2026, adjournments were sought by the applicant on different pretexts, despite sufficient opportunity having been granted to address arguments. It is submitted that such repeated requests, often coupled with absence of counsel or authorized representatives, indicate a lack of diligence in prosecuting the appeal.

21. It is further pointed out that even after imposition of costs and grant of last opportunity on 17.02.2026, the applicant continued to adopt dilatory tactics by filing successive adjournment applications on 25.02.2026, 06.03.2026, 07.04.2026 and 16.04.2026, including on grounds such as personal inconvenience, non-preparation of the case, or pendency of transfer proceedings before this Court. The record, it is submitted, reflects that the respondent had already concluded arguments, whereas the applicant failed to complete their submissions despite repeated directions. In such circumstances, the present application is asserted to be a calculated attempt to delay adjudication and avoid conclusion of proceedings.

22. The allegation regarding the oral observation attributed to the court is stated to be vague, unsubstantiated, and taken out of context. It is contended that stray or casual observations, even if assumed to have been made, cannot form the basis for alleging bias or seeking transfer, unless supported by cogent material demonstrating a real and reasonable apprehension of prejudice.

23. It is also urged that the present application amounts to an abuse of the process of law and, in substance, constitutes forum shopping under the guise of alleging apprehension of bias. The applicant, it is submitted, cannot be permitted to seek transfer merely because the proceedings are not progressing in a manner convenient to them or on account of any perceived adversity arising from the arbitral proceedings.

24. In view of the aforesaid, it is contended that the apprehension expressed by the applicant is neither reasonable nor *bona fide* and does

not satisfy the settled parameters governing transfer of cases. The application, therefore, deserves to be dismissed with costs.

25. Heard learned counsel for the parties at length. The controversy is examined in the backdrop of Section 24 of the Code of Civil Procedure, 1908, which confers discretionary powers upon the High Court and the District Court to transfer or withdraw any suit, appeal, or other proceeding at any stage.

26. The object of the aforesaid provision is to ensure that the ends of justice are effectively subserved by enabling transfer in appropriate cases. While the power is broad in its amplitude, it is required to be exercised judiciously and with due circumspection.

27. It is well settled that such power is not to be invoked for mere convenience of a party or on account of subjective apprehensions. The jurisdiction is to be exercised only where there exist circumstances giving rise to a reasonable and *bona fide* apprehension that justice may not be done, or where transfer becomes necessary to preserve the fairness and credibility of the adjudicatory process.

28. In continuation of the discussion on the scope of power under Section 24 CPC, it becomes necessary to examine the concept of bias, particularly when urged as a ground for transfer. Bias, in its ordinary connotation, denotes a predisposition or pre-judgment which detracts from the requirement of even-handed justice. A judicial authority is expected to approach every matter with an independent and impartial mind, uninfluenced by any inclination towards either party, and any deviation from this standard strikes at the very foundation of the adjudicatory process.

29. The determination of bias does not rest upon the actual state of mind of the Presiding Officer, but upon the impression which the surrounding circumstances are capable of creating in the mind of a reasonable and informed observer. The applicable test is whether there exists a real likelihood or real danger of bias. Such apprehension must be founded on tangible material and objective circumstances; mere surmise,

conjecture, or fanciful suspicion cannot constitute a valid basis. The Court is, therefore, required to adopt an objective standard and assess whether the facts on record would lead a reasonable person to apprehend that the matter may not be decided with an open and unbiased mind.

30. At the same time, the concept of bias cannot be confined within a rigid or straitjacket formula and must necessarily depend upon the facts and circumstances of each case. Not every observation made in the course of proceedings, nor every instance of active judicial engagement in regulating the hearing, can be construed as indicative of pre-judgment. A Judge is not expected to remain a silent spectator, and observations made for the purpose of clarifying issues, testing submissions, or managing proceedings cannot, by themselves, be treated as evidence of bias. A careful distinction must, therefore, be maintained between legitimate judicial conduct and circumstances which genuinely give rise to an apprehension of prejudice.

31. In the context of exercise of power under Section 24 CPC, these principles assume added significance, as allegations of bias are often invoked as a ground for transfer. While the power of transfer is undoubtedly wide, it is to be exercised with circumspection, particularly where imputations are directed against a Presiding Officer. Such allegations, if accepted lightly, have the potential to erode institutional confidence in the judicial process. The paramount consideration, therefore, remains the ends of justice, and the Court must be satisfied that the apprehension expressed is reasonable, *bona fide*, and founded on cogent material indicating that a fair adjudication may not be possible before the concerned forum.

32. Ultimately, while assurance of a fair trial is of paramount importance, a plea for transfer on the ground of bias cannot be founded on mere hypersensitivity, convenience, or trivial grievances. The Court must be satisfied that there exists something more substantial and compelling which justifies such transfer. The test is whether the apprehension is reasonable and *bona fide*, supported by objective

circumstances, and not based on conjecture or subjective perception. In this regard, the importance of a fair trial as the governing consideration in matters of transfer has been succinctly emphasised in **Maneka Sanjay Gandhi v. Rani Jethmalani**. The Supreme Court held that the foremost imperative in the dispensation of justice is the assurance of a fair trial. While considering a motion for transfer, the Court is not guided by the hypersensitivity of a party, comparative convenience, ease of access to legal services, or similar minor grievances. What is required is something substantially more compelling and of such gravity as to imperil public justice or the fairness of the adjudicatory environment. It is only upon disclosure of such weighty circumstances that the extraordinary power of transfer is to be exercised.

33. Equally, the law recognises that observations or expressions made by a Presiding Officer during the course of hearing cannot lightly be construed as indicative of bias. During the hearing of a case, a judicial officer may express tentative views or put forth opinions for the purpose of eliciting further clarification, testing rival submissions, or enabling counsel to address the concerns of the Court. Such exchanges are part of the ordinary process of adjudication and do not imply that the Court has predetermined the issues involved. Judges cannot be expected to remain silent throughout the hearing; reasoned interventions and comments on the merits, when made in the course of argument, are intended to clarify disputed issues and ought not to be mistaken as a final expression of decision.

34. While considering such a plea, the Court must adopt a cautious and balanced approach. Mere observations made during the course of hearing, or regulation of proceedings in exercise of judicial discretion, cannot be construed as indicative of bias or pre-judgment. A Judge is expected to actively engage with the matter, and such engagement cannot be mistaken as an expression of a concluded opinion. Stray remarks or dissatisfaction with the manner in which proceedings are conducted would not, by themselves, justify transfer.

35. At the same time, the Court cannot be oblivious to the principle that where circumstances exist giving rise to a reasonable apprehension in the mind of a litigant that justice may not be done, it becomes not only the power but the duty of the Court to order transfer so as to uphold the sanctity of the judicial process. The paramount factor remains the ends of justice, and each case must be examined on its own facts, keeping in view whether the apprehension is genuine and whether denial of transfer would result in miscarriage of justice.

36. Guidance on the test of reasonable apprehension in transfer matters is furnished by **R. Balakrishna Pillai v. State of Kerala**¹⁰. It was held that while one of the foundational principles of administration of justice is that justice must not only be done but must also appear to have been done, a mere allegation or assertion that justice may not be done is by itself insufficient. Before directing transfer, the Court must satisfy itself that the apprehension projected is reasonable, genuine and justifiable, and not founded upon conjecture or subjective suspicion.

37. Similar principles stand reiterated in **Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant**¹¹, where the governing test was further elucidated. The enquiry is not whether there exists a mere apprehension of bias, but whether the surrounding circumstances, when objectively assessed, disclose a real danger or reasonable likelihood of bias. For that purpose, all relevant facts and attendant circumstances are required to be collated and carefully examined. Where the conclusion of real likelihood of bias is inescapable, appropriate corrective action would follow. Conversely, where allegations are fanciful, speculative, or advanced merely to avoid a particular court, tribunal or authority, such pleas merit rejection.

38. These authorities firmly establish that the doctrine of bias is anchored in public perception of fairness, rather than proof of actual prejudice. The emphasis is on maintaining confidence in the administration of justice by ensuring that adjudication is free not only

10 (2000) 7 SCC129

11 (2001) 1 SCC 182

from actual bias but also from circumstances which reasonably give rise to its appearance.

39. At the same time, the standard of “reasonable apprehension” must be applied with care and restraint. The apprehension must be that of a reasonable, informed and objective person, and not that of a litigant who is overly sensitive or inclined to read into routine judicial conduct an element of prejudice. The test strikes a balance between preserving public confidence in the judiciary and preventing misuse of the doctrine as a tool to seek transfer on untenable grounds.

40. The concept of judicial bias has also been extensively examined in comparative jurisprudence and authoritative legal writings, which reinforce the principles governing the present issue. One of the most frequently cited formulations is found in **R v. Sussex Justices, ex parte McCarthy**¹², where **Lord Hewart, C.J.**, famously observed:

“It is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice.”

Few judicial aphorisms have been quoted more often than the celebrated dictum that **justice must not only be done, but must also be seen to be done**. The principle underscores that the legitimacy of the judicial process rests not merely on actual impartiality, but equally on the perception of fairness in the eyes of the public.

41. The modern test for bias has been articulated in **Porter v. Magill**¹³, wherein the House of Lords reformulated the standard in the following terms:

“The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.”

¹² (1924) 1 KB 256

¹³ (2002) 2 AC 357 (HL)

This formulation has been widely accepted across common law jurisdictions and aligns closely with the “reasonable apprehension” test applied by Indian courts.

42. Similarly, in **Locabail (U.K.) Ltd. v. Bayfield Properties Ltd.**¹⁴, the Court of Appeal emphasized the contextual nature of bias and cautioned against overextension of the doctrine:

“It would be dangerous and futile to attempt to define or list the factors which may or may not give rise to a real danger of bias. Everything will depend on the facts, which may include the nature of the issue to be decided... By contrast, a real danger of bias might well be thought to arise if there were personal friendship or animosity between the judge and any member of the public involved in the case; or if the judge were closely acquainted with any member of the public involved in the case... or if... the judge had expressed views... in such extreme and unbalanced terms as to throw doubt on his ability to try the issue with an objective judicial mind... The mere fact that a judge... had commented adversely on a party or witness... would not without more found a sustainable objection.”

43. The law, however, also recognizes the practical limits of the doctrine of bias. In re **Linahan**, 138 F.2d 650, **Jerome Frank**, speaking for the Court, made a significant observation on the human element in adjudication:

“If, however, ‘bias’ and ‘partiality’ be defined to mean the total absence of preconceptions in the mind of the judge, then no one has ever had a fair trial and no one will. The human mind, even at infancy, is no blank piece of paper. We are born with predispositions... Much harm is done by the myth that, merely by taking the oath of office as a judge, a man ceases to be human and strips himself of all predilections, becomes a passionless thinking machine.”

44. The above exposition highlights an important distinction between predisposition and disqualifying bias. While impartiality is an essential attribute of judicial adjudication, the law does not demand the impossible standard of a mind entirely devoid of all prior impressions. What is required is not the absence of all predispositions, but the

14 (2000) QB 451

capacity of the Judge to decide the matter on the basis of the record and the law, uninfluenced by extraneous considerations.

45. Thus, the test is not whether a Judge has any initial impressions or engages actively with the matter, but whether there exists such a degree of pre-judgment or predisposition that it renders the adjudicatory process unfair. The emphasis remains on the ability to bring an open and receptive mind to bear upon the issues in controversy.

46. The standard for determining likelihood of bias has consistently been held to be an objective one, resting on the reasonableness of the apprehension in the mind of a party. The proper approach is not for the Judge to introspect upon his own state of mind and enquire whether he is in fact biased, but to consider whether the circumstances are such as would give rise to a reasonable apprehension in the mind of a litigant.

47. This principle was articulated early in **Allinson v. General Council of Medical Education and Registration**¹⁵, where **Lord Esher** observed:

“The question is not whether in fact he was or was not biased. The Court cannot inquire into that... In the administration of justice... public policy requires that... any person who is to take part in it should not be in such a position that he might be suspected of being biased.”

48. The same principle was reiterated with greater clarity in **Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon**¹⁶, where **Lord Denning, M.R.**, observed:

“...in considering whether there was a real likelihood of bias, the court does not look at the mind of the justice himself... It does not look to see if there was a real likelihood that he would, or did, in fact favour one side... 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... there was a real likelihood of bias... then he should not sit...”

49. These authorities collectively establish two complementary propositions: first, that public confidence in the judiciary requires that

¹⁵ (1894) 1 QB 750

¹⁶ (1969) 1 QB 577

justice must appear to be done; and second, that this principle cannot be stretched to treat every judicial observation or procedural order as indicative of bias. The doctrine is intended to safeguard fairness, not to obstruct adjudication or enable litigants to avoid an inconvenient forum.

50. It is equally well settled that the law does not require a Judge to remain a silent spectator during the course of proceedings. Expression of tentative views or *prima facie* observations, with a view to test the submissions of counsel or to elicit clarification, is a normal and integral part of the adjudicatory process and does not, by itself, establish bias. Judicial engagement in the course of hearing is both permissible and necessary for effective adjudication.

51. Equally, the mere expression of *prima facie* or tentative views during the course of hearing does not, by itself, establish bias or prejudgment. In **Liteky v. United States**¹⁷, it was authoritatively held that judicial remarks made during proceedings ordinarily do not support a challenge of bias unless they display a deep-seated favoritism or antagonism rendering fair adjudication impossible. Thus, judicial engagement through questioning and tentative observations is a normal and necessary facet of adjudication and cannot, without more, be construed as indicative of bias.

52. The distinction, however, lies between a tentative view and a concluded opinion. A tentative expression is in the nature of a working hypothesis, amenable to persuasion and subject to reconsideration upon hearing the parties, whereas bias, in its legal sense, implies a closed mind incapable of being influenced by further submissions. The determinative question, therefore, is not whether the Court has indicated a *prima facie* view, but whether such indication discloses a pre-determined approach rendering the hearing an empty formality.

53. The test for determining whether a judge should be disqualified on the ground of apprehended bias is whether a fair-minded and informed observer might reasonably apprehend that the judge might not bring an

¹⁷ 510 US 540 (1994)

impartial and unprejudiced mind to the resolution of the question required to be decided. This test of bias has been authoritatively explained in **Ebner v. Official Trustee in Bankruptcy**¹⁸, wherein it was held that the assessment is to be made not with the benefit of hindsight but in the light of the facts as they existed at the time the alleged circumstances arose. Its application involves two steps: first, the identification of the circumstance which is said might lead the judge to decide the case otherwise than on its legal and factual merits; and second, the articulation of a logical connection between that circumstance and the apprehended deviation from a decision on merits.

54. The “fair-minded lay observer”, who forms the fulcrum of the test for apprehended bias, is a hypothetical construct grounded in the necessity of maintaining public confidence in the administration of justice. Such an observer is neither unduly sensitive or suspicious, nor complacent, but is informed of the legal, statutory and factual context in which the decision arises. The observer is taken to recognise ordinary human frailty and would not readily infer bias from stray or isolated exchanges, particularly where such remarks are taken out of context or divorced from the overall conduct of proceedings. The observer would also appreciate that interventionist questions or comments by a judge are often motivated by a legitimate desire to clarify issues, understand the evidence, and facilitate the adjudicatory process. These principles find articulation in **Polsen v Harrison**¹⁹ and **BW v Secretary, Department of Communities and Justice**²⁰, the latter also reiterating, with reference to **Isbester v Knox City Council**²¹, that the fair-minded observer is to be attributed knowledge of the surrounding legal and factual framework.

55. The governing standard in this regard remains that of a reasonable apprehension of bias, namely, whether a fair-minded and informed observer would, in the given circumstances, conclude that there exists a real likelihood of predisposition.

18 (2000) 205 CLR 337

19 (2021) NSWCA 23

20 (2024) NSWSC 1354

21 (2015) 255 CLR

56. The law, however, also recognises the practical limits of the doctrine of bias and the inescapable human element in adjudication. If bias or partiality were to be understood as requiring the total absence of all preconceptions or prior impressions in the mind of a Judge, no person could ever be said to receive a fair trial. The human mind is not a blank slate, nor does a Judge, merely by assuming judicial office, cease to be human or become a passionless thinking machine divested of all predispositions. What the law requires is not the impossible standard of complete mental neutrality in the abstract, but the capacity to decide the controversy fairly, with an open mind, on the basis of the record and the law.

57. It follows that a trial judge is not required to remain in stony silence or refrain from indicating tentative views for fear of attracting allegations of bias. The expression of *prima facie* views during the course of hearing, on matters where parties are afforded full opportunity to address the Court, is a recognised and legitimate feature of judicial process and does not, by itself, evince partiality. Whether judicial interventions or observations transgress the bounds of propriety must be assessed in the totality of circumstances of the case. The articulation of tentative views in the course of argument does not manifest bias. Further, the assessment cannot be founded upon selective extraction or “cherry-picking” of isolated portions of the record; the entirety of the proceedings must be considered in context. Judicial engagement, including robust exchange and probing of issues, is not impermissible; indeed, genuine debate on critical questions is an accepted facet of adjudication. Even critical, strong or candid observations, viewed in their proper setting, do not necessarily lead to an inference of bias.

58. Active participation by the Court, including posing questions, expressing doubts, or indicating tentative views, cannot be construed as bias unless it is shown that the Court has foreclosed consideration of the issues or is unwilling to be persuaded by legitimate argument. To hold otherwise would render the adjudicatory process sterile and impede effective judicial functioning.

59. Thus, while the principle that justice must not only be done but must also appear to be done remains fundamental, it cannot be extended to equate every judicial observation with pre-judgment. The apprehension of bias must be real, reasonable, and based on cogent circumstances, and not on isolated remarks or subjective perceptions of a litigant.

60. The caution required while entertaining allegations against a Presiding Officer has repeatedly been emphasised. An application seeking transfer of proceedings on such grounds cannot be dealt with in a casual or light-hearted manner. Transfer of a case from one court to another, particularly when founded on allegations directed against the Presiding Officer, inevitably carries implications touching upon the integrity, competence and reputation of the judicial officer concerned. For that reason, such relief cannot be granted on fanciful apprehensions or mere dissatisfaction of a litigant, but only where sufficiently cogent, substantial and credible grounds are disclosed.

61. The enquiry of the Court, while examining a plea of bias, is not whether any earlier order passed by the Presiding Officer may be erroneous, adverse, or even legally vulnerable, since such matters are amenable to challenge in appropriate appellate or supervisory proceedings. The real question is whether the conduct complained of discloses a demonstrable manifestation of prejudice, partiality, or a reasonable apprehension that the matter would not receive fair consideration.

62. Equally, transfer of a case from one Judge to another cannot be ordered merely on a party's perceived notion of bias. Judicial orders, by their very nature, may operate to the advantage of one party and to the detriment of the other. The fact that an order is adverse to a litigant, or that the court has not accepted a party's submissions, does not by itself reflect any bias on the part of the Presiding Officer. To hold otherwise would permit every unsuccessful party to seek transfer on the basis of

dissatisfaction with the course or outcome of proceedings, a consequence plainly impermissible in law.

63. It must be emphasised that judges are duty-bound to discharge their functions unless disqualified in accordance with law, and ought not to accede lightly to recusal or transfer requests, lest litigants be permitted, in effect, to choose the forum of their preference. The mere fact that adverse orders have been passed against a party does not furnish a ground for disqualification. The doctrine of apprehended bias is concerned with a reasonable likelihood of prejudice or partiality, and not with the subjective perceptions or expectations of an individual litigant.

64. The Court must zealously guard the right to a fair and impartial trial, it must equally ensure that the extraordinary power of transfer is not invoked on the basis of vague, unsubstantiated, or fanciful allegations, or as a device to delay proceedings or avoid a particular forum.

65. The principles emerging from the aforesaid discussion governing the exercise of jurisdiction under Section 24 CPC, particularly where transfer is sought on allegations of bias, may be succinctly summarised thus:

65.1 The power of transfer under Section 24 CPC is wide but discretionary, and must be exercised sparingly, judiciously, and only to secure the ends of justice.

65.2 Transfer cannot be granted on mere convenience, dissatisfaction, or subjective apprehension of a party.

65.3 Where bias is alleged, the test is objective, namely, whether a fair-minded, informed, and reasonable observer would apprehend a real likelihood of prejudice or that justice may not be done.

65.4 Such apprehension must be bona fide, reasonable, and founded on cogent, tangible, and contemporaneous material, and not on conjecture, suspicion, or isolated impressions.

65.5 Justice must not only be done but must also appear to be done; however, this principle cannot be extended to treat every adverse order, procedural direction, or judicial remark as evidence of bias.

65.6 A Judge is not expected to remain silent. Active judicial engagement, questioning, prima facie observations, regulation of proceedings, or tentative views expressed during hearing are normal incidents of adjudication and do not by themselves establish prejudice.

65.7 Only conduct indicative of a closed mind, pre-judgment, personal interest, hostility, or unwillingness to consider legitimate submissions may justify transfer on the ground of bias.

65.8 Allegations against a Presiding Officer are serious in nature and must be examined with caution, since unfounded accusations may erode institutional confidence and judicial independence.

65.9 The power of transfer must not be permitted to become an instrument of forum shopping, delay, or avoidance of an inconvenient forum.

65.10 Ultimately, each case turns on its own facts, with the paramount consideration being whether denial of transfer would realistically undermine the fairness, impartiality, or credibility of the adjudicatory process.

66. Having noticed the governing principles, this Court now proceeds to examine whether, in the facts of the present case, the apprehension expressed by the applicant satisfies the threshold of a real and reasonable likelihood of bias so as to warrant exercise of power under Section 24 CPC.

67. From the record, it transpires that the grievance of the applicant rests essentially on two circumstances: firstly, that on the date fixed, the learned court proceeded to hear the respondent when an adjournment was sought on behalf of the applicant; and secondly, that an oral remark is alleged to have been made by the Presiding Officer advising the

applicant to arrange funds to pay the respondent, which, according to them, indicates a predisposition in the matter.

68. Insofar as the first ground is concerned, this Court finds that the regulation of proceedings, including the grant or refusal of adjournments and the decision to proceed with hearing, squarely falls within the domain of judicial discretion. The record does not disclose any denial of opportunity of hearing to the applicant; rather, it reflects that the matter was adjourned thereafter for hearing on their behalf. The mere fact that the court proceeded to hear the respondent on a particular date, especially when an adjournment was sought by the applicant, cannot be construed as indicative of bias or prejudice. Such orders are part of routine judicial functioning and, in the absence of demonstrable prejudice, cannot be elevated to a ground for transfer.

69. This inference stands further reinforced by the contention of the respondent based on the order-sheets, in respect whereof this Court finds considerable merit in the submission that the conduct of the applicant reflects a consistent pattern of seeking repeated adjournments on varying and untenable grounds. The record reveals that on several dates adjournments were sought despite sufficient opportunity having been granted to address arguments. The learned Commercial Court has also recorded that such repeated requests, often accompanied by absence of counsel or authorised representatives, indicate that the applicant were not serious in prosecuting the appeal and were seeking to prolong the proceedings at their convenience.

70. It is further evident from the record that even after imposition of costs and grant of last opportunities, the applicant continued to adopt dilatory tactics by filing successive adjournment applications on grounds such as personal inconvenience, lack of preparation, or pendency of transfer proceedings. Significantly, the respondent had already concluded arguments, whereas the applicant failed to complete their submissions despite repeated directions.

71. Viewed in this backdrop, the record does not disclose any denial of opportunity of hearing to the applicant; rather, it reflects that the proceedings were adjourned thereafter for hearing on their behalf. In such circumstances, the contention of the respondent that the present transfer application is not founded on any bona fide apprehension of bias, but is a device to delay adjudication and avoid conclusion of the proceedings, appears to be well-founded.

72. As regards the second ground relating to the alleged oral remark, it is to be noted that no contemporaneous record, order-sheet entry, or any other material has been placed on record to substantiate the same. The allegation rests solely on an assertion made in the application. Even assuming, for the sake of argument, that some observation to the effect indicated was made, such remarks, if made in the course of hearing, may at best reflect a tentative view, a suggestion for exploring settlement, or an attempt to test the stand of the parties. It is well settled that expressions made by a court during the course of hearing cannot be read in isolation or treated as a final pronouncement on the merits.

73. A Presiding Officer is expected to actively engage with the matter, pose questions, and even indicate prima facie impressions so as to facilitate effective adjudication. To construe every such observation as evidence of pre-judgment would render the process of judicial hearing impracticable. The law, as noticed hereinabove, draws a clear distinction between a tentative observation made in the course of proceedings and a concluded determination, and only the latter, if demonstrably established, can give rise to a legitimate apprehension of bias.

74. During the course of hearing, a Presiding Officer is entitled to actively engage with the matter by putting questions, seeking clarifications, and even indicating prima facie views so as to facilitate effective adjudication. It cannot be expected that the Judges should be silent without expressing any opinion; a "sphinx-like" attitude is not expected from the Presiding Officer. Mere observations made in the course of proceedings, unless demonstrably indicative of a closed mind

or final determination, cannot be construed as evidence of bias so as to vitiate the proceedings.

75. Tested on the touchstone of a reasonable and informed observer, this Court is of the considered view that the apprehension expressed by the applicant does not rise beyond a subjective perception. There is no tangible material on record from which it can be inferred that there exists a real likelihood of bias or that the learned Presiding Officer would not adjudicate the matter in accordance with law. The allegations, in their present form, fall short of the standard of being reasonable, bona fide, and substantiated.

76. It must also be borne in mind that transfer of a case on the ground of bias, particularly when directed against a Presiding Officer, is a matter of serious consequence. Such an order, if passed without adequate basis, has the potential to cast unwarranted aspersions on the integrity and independence of the judicial officer concerned. The power under Section 24 CPC, though wide, is to be exercised with circumspection and only in cases where the ends of justice so demand on the basis of cogent and compelling circumstances. Allegations touching upon the impartiality of a judicial officer are required to be made with due care and circumspection, and must be founded on cogent material. Such pleas, if resting on vague or unsubstantiated assertions, carry the potential to undermine confidence in the judicial process and ought not to be lightly entertained.

77. The allegations of bias in the present case are founded solely on an isolated observation made during the course of hearing, which, when viewed in their proper perspective, falls well within the permissible bounds of judicial engagement. No material whatsoever has been placed on record to establish any real likelihood of bias or to indicate that the learned court below has pre-judged the matter or closed its mind to the issues involved. The apprehension sought to be projected by the applicant is thus wholly subjective, speculative, and devoid of any reasonable or cogent foundation.

78. Accepting allegations of the present nature, which are neither supported by material nor demonstrative of any real prejudice, would open the door to litigants seeking transfer on tenuous grounds, thereby encouraging forum shopping and impeding the orderly administration of justice. The Court cannot permit its process to be invoked in a manner that undermines the confidence in the institutional framework of the judiciary.

79. Insofar as the authorities relied upon by the applicant are concerned, this Court finds that the propositions laid down therein are well settled and cannot be disputed. The decisions in **Gurcharan Das Chadha** and **Maneka Sanjay Gandhi** reiterate that justice must not only be done but must also appear to be done, and that a fair trial is an integral component of Article 21. Likewise, the judgments in **P.K. Ghosh** and **Shivananda Pathak** emphasize that even an appearance of bias may vitiate proceedings, while **Kulwinder Kaur** recognizes the wide amplitude of powers under Section 24 CPC to secure the ends of justice. Similarly, in **Ranjit Thakur** and allied authorities, the test of “real likelihood of bias” has been explained as one based on the perception of a reasonable and informed person, and not on proof of actual prejudice.

80. However, the applicability of these principles necessarily depends upon the factual foundation laid in each case. As noticed hereinabove, the apprehension projected by the applicant is not supported by any cogent or contemporaneous material and rests primarily on conjecture and subjective perception. None of the cited authorities dispense with the requirement that such apprehension must be reasonable, bona fide, and based on tangible circumstances. In the absence of any material demonstrating a real likelihood of bias, the reliance placed on the aforesaid judgments does not advance the case of the applicant, and the same are clearly distinguishable on facts.

81. In view of the foregoing discussion, this Court finds that the applicant have failed to make out any case warranting transfer of the

proceedings. The apprehension expressed by them is neither reasonable nor substantiated so as to justify exercise of jurisdiction under Section 24 CPC.

82. Consequently, this Court finds no merit in the present transfer application, which is, accordingly, **dismissed**.

83. It is, however, clarified that the observations made herein are confined solely to the adjudication of the present transfer application and shall not be construed as any expression on the merits of Arbitration Appeal No.15 of 2025 or the stay application pending therein, which shall be considered and decided independently by the court concerned, strictly in accordance with law.

84. The appellate court shall endeavour to dispose of the pending appeal expeditiously, in accordance with law, after affording due opportunity of hearing to all parties concerned. The applicant as well as the respondents are directed to extend full cooperation in the proceedings and to remain duly represented on the dates fixed, so that the proceedings in the appeal may be concluded without any further delay.

(Dr. Yogendra Kumar Srivastava,J.)

April 29, 2026

RKK/-