**AFFIDAVIT IN SUPPORT OF THE APPLICATION**

IN THE COURT OF THE DISTRICT JUDGE....................

Affidavit

in

Civil Misc. Application No..................... of 19....................

A. B................................................................... Plaintiff

*versus*

C. D................................................................ Defendant

Affidavit of A. B. s/o.................... aged about.................... years, resident of .................... District....................

I, A. B. Deponent abovenamed solemnly state and affirm as follows:

1. That I am the applicant in the abovenoted miscellaneous application for transfer of the case and as such am fully acquainted with the facts deposed to below.

2. That I have been read over the contents of the accompanying misc. application and those of this affidavit and have fully understood the same.

3. That the contents of paras 1, 2, 3, 4 and 6 of the application and those of paras 1 and 2 of this affidavit are true to my personal knowledge, that contents of para 5 of the application are based on legal advice which I believe to be true. That no part of this affidavit is false and nothing material has been concealed.

Verified this.................... day of.................... at....................

Sd. Deponent

**CASE LAW**

***Sections 22 and 23***

**TRANSFER OF CASE — NATURE OF DISPUTES INVOLVED IN TWO CASES SUCH THEY BE HEARD BY SAME COURT — SUIT FILED BY HUSBAND TRANSFERRED.**

Having regard to the nature of the disputes involved in the two cases, it is highly expedient that the cases are heard by the same court. On the earlier occasion the respondent made an application for transfer of the Dibrugarh case to Delhi which was rejected by the court.

The Dibrugarh case, therefore, has to be heard there. In the circumstances, it is proper to transfer the Delhi case to Dibrugarh. Although it may cause the respondent some trouble of undertaking the journey to Dibrugarh but, for that reason in the facts of the present case it cannot be assumed that he will be prejudiced in prosecuting his case. If he is not in any financial difficulty, as it appears from the records and his own statement before this court, he can make an appropriate arrangement for his representation at Dibrugarh and may not remain at Dibrugarh continuously for looking after the cases. It is expected that the trial Judge may fix a firm date for hearing of the case to avoid adjournments so that the respondent may not have to pay repeated visits to Dibrugarh.1

**SCOPE OF THE SECTION.**

While determining whether to transfer a suit to a court having jurisdiction, the balance of convenience of all the parties and the witnesses if any, must be considered.2

**EXERCISE OF HIGH COURT’S POWER TO TRANSFER SUITS.**

Power of High Court to transfer suit pending in a Court subordinate to it to another Court subordinate to a different High Court, is exercised in the ends of justice or to prevent abuse of process of Court.3

**NOTICE NECESSARY TO BE GIVEN TO ALL PARTIES.**

Notice should be given to all the parties impleaded in the suit, whether as plaintiff or as defendant and not merely to parties arrayed on the opposite side.4

**NOTICE TO BE GIVEN BEFORE FILING APPLICATION FOR TRANSFER.**

Under the terms of this section, notice must be given of the application before it is made i.e., filed in the Court. However, it has been held that the defect of want of prior notice can be cured by giving notice by Court on the application of transfer moved by the applicant.5

1. M/s. Shakuntala Modi v. Om Prakash Bharuka, A.I.R. 1991 S.C. 1104.

2. Sundardas Tharersay & Bros. v. The Commercial Mills Co. Ltd., A.I.R. 1971 Cal. 398.

3. A.I.R. 1976 Punj. 321: 78 Punj. L.R. 638.

4. Vijaya Ram v. Dr. Vijaya Anand, A.I.R. 1953 All. 750.

5. Basanti v. Sahodra, 1955 All.L.J. 1093: A.I.R. 1955 All. 979.