**APPLICATION UNDER SECTION 25 PROVINCIAL SMALL CAUSE COURTS ACT, 1887**

Form of revision in District Court

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

Civil. Revision No..................... of 19....................

u/s. 25 Provincial Small Cause Courts Act, 1887.

A. B................................................................. Applicant

*versus*

C. D........................................................ Opposite Party

REVISION APPLICATION AGAINST JUDGMENT AND DECREE

DATED.................... IN ORIGINAL SUIT NO.....................

OF 19....................

Valuation of Suit: Rs.....................

Nature of Suit: Recovery of money given through Negotiable Instrument (Cheque).

Court fee paid on revision application: Rs.....................

Sir,

The revision application against the judgment and decree dated.................... in Original Suit No..................... passed by the Judge Small Causes.................... is most respectfully submitted on the following grounds:

**GROUNDS OF REVISION**

1. Because the learned Trial Judge aforesaid has not considered at all the first basic ground of argument pressed on behalf of the plaintiff/applicant that it is-a case for recovery of money based on negotiable instrument i. e. cheques, the bar to prove consideration for the negotiable instrument is on the defendant in which the defendant has totally failed. And as such the judgment and decree of the learned Judge is quite misconceived in law and in the wrongful exercise of his jurisdiction.

2. Because the sanctity of transaction by negotiable instrument is maintained by the Union Legislature by providing a summary procedure for recovery of the amount under Order 37 of the Code of Civil Procedure, though however, this case was filed under the regular procedure, which the applicant tried to convert at a later stage of the suit through an application to treat the suit as a suit under summary procedure, but the learned trial Judge rejected that application and acted already in the wrongful exercise of his jurisdiction.

3. Because under law the plaintiff is entitled to get back the money given through cheques which the defendant has admitted in Court in statement u/o X r. 2 C. P. C. to have been credited in his account. The learned Judge has failed to consider this aspect of the case and has erroneously taken into consideration irrelevant and inadmissible matters and misconceptions of fact in his judgment.

4. Because the learned Judge has erroneously held the suit to be barred under the U. P. Money Lenders Act which question has already been decided by the Court on the preliminary objection/application of the defendant. The learned Judge has also misconceived on the nature of money lending and misread the statement of the plaintiff when there is no evidence on record that the plaintiff has given money on loan to any other person in the ordinary course of money lending business.

5. Because the learned Judge has erroneously held that the defendant gave on hire a truck to the plaintiff and Ram Bharosi @ Rs. 1, 000\- per month and they plied it part time, whereas both of them are conductor and bus driver respectively in the U. P. Govt. Roadways, without any evidence on record that they ever plied such a truck in part time.

6. Because the learned Judge overlooked the statement of the defendant that he does not maintain any account books, nor he has produced or able to produce any entry in any of his records kept in the ordinary course of his business, regarding the giving of the truck on hire to the plaintiff and the receiving of any amount in his books as to hire money of the alleged truck.

7. Because the learned Judge has considered the whole case on conjectures and surmises, without caring to look into the evidence on record, and the judgment and decree passed by the learned Judge Small Causes is not according to law.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon’ble Court may be pleased to call for the record of the case aforesaid and set aside the judgment and decree of the learned Judge Small Causes in the above mentioned case, and decree the suit of the plaintiff/applicant.

Dated.................... Counsel for the Applicant

**CASE LAW**

***Section 25***

**TRANSFER OF SUITS TO ONE STATE FROM ANOTHER — ISSUE IN BOTH BEING COMMON.**

Where two suits related to payment to be made to the discounting bank under agreement to finance manufacturer under ‘Bills Rediscounting Scheme’ pending in District Judge’s Court in Madhya Pradesh and Madras High Court and issues in both suits were common. Payment to the discounting bank was to be made in Madras. Taking of evidence was not commenced. Held that in these circumstances the suit in the Madhya Pradesh Court should be transferred to Madras High Court.1

**TRANSFER OF CASE FROM ONE BENCH OF SUPREME COURT TO ANOTHER — WHEN.**

No party is entitled to get a case transferred from one Bench of the Supreme Court to the other unless the Bench is biased or there are some reasonable grounds for the same but no right to get a case transferred to any other Bench can legitimately be claimed merely because the Judges express opinion on the merits of the case on the conclusion of hearing.2

**TRANSFER OF SUIT — PARAMOUNT CONSIDERATION.**

The cardinal principle for the exercise of power under the Section is that the ends of justice demand the transfer of the suit, appeal or other proceedings. The question of expediency would depend on the facts and circumstances of each case but the paramount consideration for the exercise of power must be to meet the ends of justice. It is true that if more than one court has jurisdiction under the Code to try suit the plaintiff has a right to choose the court and the defendant cannot demand that the suit be tried in any particular court convenient to him. The mere convenience of the parties or any of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in denial of justice. Cases are not unknown where a party seeking justice chooses a forum most inconvenient to the adversary with a view to depriving that party of a fair trial. The Parliament has therefore invested Supreme Court with the discretion to transfer the case from one court to another if that is considered expedient to meet the ends of justice. Words of wide amplitude-for the ends of justice have been advisely used to leave the matter to the discretion of the Apex Court as it is not possible to conceive of all situations requiring or justifying the exercise of power. But the paramount consideration must be to see that justice according to law is done, if for achieving that objective the transfer of case is imperative there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff.3

**SCOPE OF THE SECTION**

Under this section the Supreme Court has power to transfer a suit from one High Court to another in the ends of justice. What is expedient for the ends of justice will have to be judged upon the totality of facts and circumstances in a given case.4

**POWER OF HIGH COURT NOT MADE NUGATORY.**

The power of High Court relating to transfer of cases under section 23(3) does not stand superseded, i.e., it is not rendered nugatory in view of the amended section 25.5

**ESSENTIALS TO MOVE APPLICATION FOR TRANSFER OF CASE IN SUPREME COURT.**

A Transfer petition in the Supreme Court may be moved after notice of motion to the parties to a suit or proceeding, in the form of a petition supported by an affidavit. If the Supreme Court finds that the application was frivolous or vexatious, it would naturally dismiss it and also can award compensation to the opposing party a sum not exceeding two thousand rupees. What is expedient in the ends of justice will be judged upon the totality of facts and circumstances in a given case.6

1. Indian Overseas Bank, Madras v. Chemical Construction Co., (1979) 4 S.C.C. 358: A.I.R. 1979 S.C. 1514: (1980) 3 S.C.R. 920.

2. Gujarat Electricity Board v. Atmaram Sungorual Poshani, A.I.R. 1989 S.C. 1433: 1989 (2) S.C.C. 602: 1989 (3) J.T. 20: 1989 Lab.1.C. 1374: 1989 (75) D.J.R. 83: 1989 (1) A.T.L.T. (S.C.) 758.

3. Dr. Subramaniam Swamy v. Ram Krishna Hegde, A.I.R. 1990 S.C. 113.

4. Arvee Industries v. Ratanlal Sharma, A.I.R. 1977 S.C. 2429: 1978 (1) S.C.R. 418: 1978 (1) Rent L.R. 27: 1977 (4) S.C.C. 363: 1977 Cur.L.J. (Civil) 588: 1977 Rev.L.R. 657: 1977 Punj.L.J. 434.

5. A.I.R. 1980 Bom. 337: 1980 Hindu L.R. 400: 1980 Mah.L.J. 269.

6. Arvee Industries v. Ratan Lal, A.I.R. 1977 S.C. 2429: (1977) 4 S.C.C. 363.