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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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**TRANSFER CMP Nos.569, 570, 571, 572, 573, 574, 575, 576,
577, 578, 579, 580, 581, 583, 584, 585, 586, 587, 588, 589,
590, 591, 592 of 2015**

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COMMON ORDER:
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These Transfer Civil Miscellaneous Petitions are filed under Section 24 of CPC to transfer the suits in question pending on the file of different Courts to the court of Principal District & Sessions Judge, West Godavari at Eluru.

2. In all these petitions, the petitioners are same, who are 2 in number, except in Tr.CMP No.576 of 2015, who are 4 in number, and they all are brothers. They seek to transfer the suits in question filed against them in different Courts seeking for recovery of money based on pro-notes alleged to have been executed by them, to the court of Principal District & Sessions Judge, West Godavari at Eluru.

3. Inasmuch as, facts and subject matter is similar, suffice it to advert to the facts in Tr.CMP No.569 of 2015.

4. The petitioner is defendant in suit OS No.116 of 2014 pending on the file of Senior Civil Judge, Nuzividu, Krishna District. The said suit was filed by the respondent-plaintiff for recovery of amount of Rs.9,53,312/- with interest and costs,

based on pro-note dated 24-03-2011 alleged to have been executed by the petitioner. In all other suits, which are subject matters of other Tr.CMPs also suits are filed against the petitioner and his brothers for recovery of amount based on the pro-notes alleged to have been executed by the petitioner and his brothers.

5. The petitioner denies the execution of promissory notes and also the creditor and debtor relationship between himself and the respondent and that he never borrowed any amounts from the respondent. The petitioner states that one Vegunta Radhakrishana Rao, who is his distant relative used to lend money to the third parties and he also borrowed some amounts from the said person by executing promissory notes and repaid the same, but the said Vegunta Radhakrishana Rao did not return the said promissory notes as well as cheques, which were obtained towards security under the pretext of misplacement of those documents, after the death of Vegunta Radhakrishana Rao, his son V.S.N.H.V.Prasad Babu, taking advantage of the custody of the promissory notes and cheques, got filed suits against the petitioner through different respondents. That basing on the cheques said to have been issued by the petitioner and also the pro-notes executed by him, the respondent filed criminal

complaints against the petitioner under Section 138 of Negotiable Instruments Act in various courts. That the defence taken by the petitioners in all the suits is common, they seek to transfer the suits pending on the file of various Courts to the Court of Principal District & Sessions Judge, West Godavari at Eluru.

6. The learned counsel for the petitioners submits that since the defence taken in all the suits is common, it will be convenient for the petitioners to defend their case and to avoid conflict judgments in all the suits, they may be tried together by the Principal District & Sessions Judge at Eluru, West Godavari District. The learned counsel in support of his contention, placed reliance on a decision of this Court reported in **KANURU BASAVA PUNNARAO VS. PUTTAGUNTA NAGESWARA RAO**^[1].

7. On the other hand, learned counsel for the respondents submits that the respondents in all these Transfer CMPs are farmers, have lent their hard earned money to the petitioners after selling their tobacco produce. Learned counsel further submits that the petitioners have not replied to the legal notices issued by the respondents and, therefore, for the convenience of the petitioners, the

respondents cannot be made to suffer to attend the Court at Eluru and there are no bona-fides on the part of the petitioners in filing these Transfer CMPs.

8. In this case, it is to be seen that admittedly when notice is issued by the respondent to the petitioner, there was no reply from him and only after the suit is filed, the present defence is taken that the suit pro-note is false, forged and fabricated. Suits have been filed against the petitioners-defendants in different Courts in West Godavari District. Some other suits are filed in the Courts at Nuzvidu, Krishna District. As observed by this Court in *Kanuru Basava Punnarao's* case supra, normally the plaintiff has the right to choose the place of suing and the convenience of the defendant or his witnesses cannot be a valid ground for the transfer of the suit, but where the defence in all the suits is practically one and the same and common questions of fact and law arise for decision, to secure the ends of justice and to prevent multiplicity of proceedings and also the possibility of conflicting judgments, Courts have generally held that it is better to have all such suits tried at one place only by the same Court.

9. But the facts in this case are slightly on different

footing. The plaintiffs in the suits which are filed in the Courts at Nuzvidu, Krishna District are all stated to be farmers and they cannot be made to undergo the rigor of travelling all the way from Nuzvidu to Eluru. It would perhaps also cause hardship for the witnesses to give evidence in the cases by coming to the Court at Eluru.

10. However, having regard to the facts and circumstances of the case, the suits which are subject matter of Tr.CMPs 569, 587 & 589 of 2015 and pending on the file of Senior Civil Judge, Nuzvidu, are withdrawn and transferred to the file of XV Addl. District Judge, Nuzvidu, Krishna District, to be tried along with the suits which are subject matter of Tr.CMPs 574, 575 and 591 of 2015 and pending on the file of XV Addl. District Judge, Nuzvidu, Krishna District. To meet the ends of justice, corresponding suits which are subject matter in other Tr.CMPs 570, 571, 572, 573, 576, 577, 578, 579, 580, 581, 583, 584, 585, 586, 588, 590, 592 of 2015 pending in different Courts at Eluru are required to be tried by one competent Court at Eluru for convenience of the parties. Accordingly, the suits which are subject matter in Tr.CMPs 570, 571, 572, 573, 576, 577, 578, 579, 580, 581, 583, 584, 585, 586, 588, 590, 592 of 2015 are withdrawn and transferred to the file of Principal

11. In the result, Tr.CMPs 570, 571, 572, 573, 576, 577, 578, 579, 580, 581, 583, 584, 585, 586, 588, 590, 592 of 2015 & Tr.CMPs 569, 587 & 589 of 2015 are allowed. Tr.CMPs 574, 575 and 591 of 2015 are dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

REDDY, J

Dt.25-11-2015
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THE HON'BLE SRI JUSTICE

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Dt.25.11.2015

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