

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.433 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.S.No.84 of 2012 from the file of the Junior Civil Judge Court, Atmakur, and transfer the same to the Court of Senior Civil Judge, Atmakur, to be tried along with O.S.No.50 of 2013.

2. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, this Court is inclined to dispose of the matter on merits in the absence of the respondent. Heard the learned counsel for the petitioner and perused the material available on record.

3. A perusal of the record reveals that the petitioner herein filed O.S.No.84 of 2012 on the file of the Junior Civil Judge Court, Atmakur, for perpetual injunction restraining the respondent not to interfere with the plaint schedule property. The first respondent herein filed O.S.No.50 of 2013 against the petitioner and another for specific performance of agreement of sale dated 19.07.1999. While the things stood thus, the petitioner herein filed Tr.C.M.P.No.108 of 2014 on the file of the Principal District Court, Kurnool and the same was dismissed on 23.06.2015. Hence, the present petition. A perusal of the record reveals that the subject matter of both the suits is one and the same. The parties to both the suits are one and the same. The learned District Judge made an observation that the parties in both the suits are common and the subject matter of the suit is one and the same. The learned District Judge dismissed the petition on the sole ground that the relief sought in both the matters is not one and the same. The evidence to be adduced in both the matters is almost one and the same. If both suits are being tried in two different Courts, there

is every possibility of conflicting of judgments. In order to secure the ends of justice and also to avoid inconvenience to both parties, I am of the considered view that it is a fit case to allow the petition.

4 . Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.S.No.84 of 2012 pending on the file of the Junior Civil Judge, Atmakur, is withdrawn and transferred to the Court of Senior Civil Judge, Atmakur, for disposal in accordance with law. As a sequel, miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

03.09.2015.

Rns