

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER C.M.P.No.431 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.S. No.972 of 2014 from the file of VII Additional Senior Civil Judge Court, Visakhapatnam to the file of Senior Civil Judge Court, Pithapuram, for trial and disposal in accordance with law.

2. Heard the learned counsel for both the parties and perused the material available on record.

3. A perusal of the record reveals that first respondent filed O.S. No.972 of 2014 on the file of VII Additional Senior Civil Judge Court, Visakhapatnam against the petitioner and respondent Nos.2 and 3 herein for recovery an amount of Rs.5,67,380/- based on the promissory note said to have been executed by late N.Lakshminarayana. The petitioner is the wife, and respondent Nos.2 and 3 are sons of said Lakshminarayana. For one reason or the other, respondent Nos.2 and 3 did not file petition seeking similar relief.

4. The learned counsel for the petitioner submitted that after death of her husband, petitioner has been residing with her parents at Pithapuram. A perusal of the record *prima facie* reveals that the alleged cause of action for filing of the suit arose within the territorial jurisdiction of Senior Civil Judge Court, Visakhapatnam.

The record further reveals that the scribe and attestors of the promissory note belong to Visakhapatnam. There is no necessity for the petitioner to attend the Court of VII Additional Senior Civil Judge, Visakhapatnam on each and every date of adjournment. Since the children of the petitioner (respondent Nos.2 and 3) are

also defendant Nos.2 to 3 in the suit, the petitioner can take the assistance of her children in order to defend the suit in Visakhapatnam. Mere inconvenience of one of the parties to the proceedings by itself is not a valid ground to transfer the suit from one place to another place. As per the allegations made in the petition, no part of cause of action arose within the territorial jurisdiction of Senior Civil Judge Court, Pithapuram. Even as per the case of the petitioner, herself and respondent Nos.2 and 3 were residing at Visakhapatnam as on the date of the alleged execution of the promissory note by late Lakshminarayana. If the matter is transferred, first respondent, who belongs to Vizianagaram, has to bring the witnesses from Visakhapatnam to Pithapuram. Therefore, if the petition is allowed, it may cause untold hardship to the first respondent, who belongs to Vizianagaram District.

5. The learned counsel for the petitioner further submitted that the first respondent forged the signatures of Lakshminarayana and filed the frivolous suit in order to harass the petitioner with an ulterior motive. While deciding the petitions of this nature, the court should not express any opinion touching the merits of the main case. The petitioner is at liberty to raise all these grounds at the time of the trial of the suit. It is not uncommon to make allegations and counter allegations for the reasons best known to the parties to the proceedings. The alleged apprehension of the petitioner is not supported by any material much less cogent and convincing material. The petitioner failed to make out any grounds to grant the relief as prayed for.

6. In the result, the transfer petition is dismissed. Miscellaneous petitions, if any pending in this transfer petition,

shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.9.2015.
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