

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

-
Tr.CMP No.63 of 2015

ORDER ::

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw and transfer Succession OP No.2 of 2014 pending on the file of Senior Civil Judge, Chirala, Prakasam District, to any competent Court in SPSR Nellore District.

2. The case of the petitioner is that she is respondent no.2 in SOP No.2 of 2014 filed by respondents 1 to 3 herein for grant of succession certificate in their favour and to empower them to realize the gold and silver ornaments laying in the locker of Kota Baktha Sambasiva Sankara Rao @ Kota Sankara Rao @ Kota Sankara Rao, (since deceased) for short, 'Sankara Rao' in 4th respondent-Bank of Baroda, at Chirala, Prakasam District. That respondents 1 to 3 being wife and sons of Sankara Rao neglected him and did not take care of him during his old age, but the petitioner and her husband have taken care of him. Sankara Rao had bank account in 4th respondent-bank and he also opened a locker and for that purpose made fixed deposit in the bank, to which the petitioner was made as a nominee for said locker and the fixed deposit and the same was also informed to the petitioner and her husband. That they

were informed by Sankara Rao that he does not want to give anything to his successors as they have neglected and necked him out from the house. That the petitioner and her husband looked after him, got him treated for his ill health, but the said Sankara Rao died while undergoing treatment in Narayana General Hospital, Nellore-2 while under the care of the petitioner and her husband. That the 4th respondent-bank released the fixed deposit amounts made by Sankara Rao in favour of the petitioner, she being the nominee. That the petitioner when approached the 4th respondent-bank to handover the ornaments in the locker of Sankara Rao, she being the nominee, the 4th respondent-bank has refused to handover the ornaments in the locker, and asked the petitioner to obtain succession certificate from a competent Court. That respondents 1 to 3 have also approached the 4th respondent-bank to claim the ornaments in the locker of the Sankara Rao stating that they are the legal heirs of Sankara Rao. That the petitioner got issued a legal notice to the 4th respondent-bank calling upon the bank not to permit any person except the petitioner, to open or in any way deal with the locker, as the petitioner is the only nominee for the said locker, to which the bank appears to have replied to the petitioner that in respect of locker account, no nominee is mentioned, and no one can

have right to ask the particulars of the locker, until succession certificate is produced from the competent Court that they are the legal heirs of Sankara Rao. In the meanwhile, respondents 1 to 3 who claim to be wife and sons of Sankara Rao filed the above Succession OP No.2 of 2014 and the petitioner is contesting the case. That she is the resident of Nellore and met with an accident recently and her health is not keeping good and need regular treatment. That due to her health condition, she is not in a position to move freely and to go Chirala to attend the case. That on 31-12-2014 when she along with her Advocate went to the Court at Chirala to attend the above case, the local advocates objected to her advocate conducting the case as he is a non-local advocate and they created nuisance. That even the Court staff, when petitioner's counsel wanted to check the case bundle, did not allow him to verify the Court bundle. That the respondents 1 to 3 also threatened the petitioner not to contest the case or else, they would continue to harass her. She being a woman and a non-local, she is not in a position to fight out with the respondents who are highly influential and also colluded with the 4th respondent-bank officials. That the petitioner firmly believes that she may not be able to contest the case in the Court at Chirala and get justice and, therefore, sought to transfer the

case to the competent Court at Nellore District.

3. Sworn affidavit is filed by one K. Sanathana Reddy, Advocate as a third party stating that he is representing the petitioner in above SOP and he when tried to represent the petitioner in SOP No.2 of 2014, local advocates of Chirala court objected and created nuisance that he is a non-local advocate and cannot represent the petitioner. He also made same allegations as that of the petitioner against the staff of the Court that they have not permitted him to peruse the Court bundle of the case.

4. Counter affidavit is filed 2nd respondent on his behalf and also on behalf of the respondents 1 and 3. It is denied that the local advocates at Chirala Court have objected to the petitioner's counsel, when he tried to represent the petitioner in the case and it is totally false and created for the purpose of this case. It is also denied the allegation that the Court staff of the Chirala court did not permit him to look into the Court file. It is stated that if any such incident really happened the advocate or the petitioner ought to have filed complaint before the presiding Officer of the Court or to the President of the Bar Association, but no such complaint was filed. That they filed the above SOP No.2 of 2014 seeking succession certificate to succeed to the estate of Sankara Rao, who is his father and

they are the absolute owners of the properties of deceased Sankara Rao. That when they approached the 4th respondent-bank, they were instructed to obtain succession certificate from the competent Court as some third parties are claiming the same property and, therefore, they filed the above SOP. That the petitioner appeared in the SOP on earlier occasions by filing *vakalat*, and if really the local advocates have objected for his appearance in the Court, he could not have filed the *vakalat* and argued the matter on earlier occasions. That there is no relation of the petitioner with Sankara Rao and they have not seen her earlier. That the 4th respondent-bank is located in Chirala and the cause of action arose in Chirala, the Court at Chirala alone has jurisdiction and, therefore, the transfer civil miscellaneous petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. The main ground urged by the petitioner for seeking transfer of the case from the Court at Chirala to the competent Court at Nellore is that the respondents in connivance with the local advocates of the Chirala Court are not allowing the petitioner and her advocate to conduct the case in the Court at Chirala. It is to be seen that though allegation is made to that

effect, but at no point of time, any complaint was lodged neither against the advocates in the bar council nor against the staff of the Court to the presiding Officer of the Court. No details of the advocates who alleged to have objected the petitioner's counsel from conducting the case are mentioned. Further, in the affidavit filed in support of the petition, it is not stated what is the relationship with the deceased Sankara Rao and the petitioner and her husband, except stating that they have taken care off of him during his ill-health. Based on vague and bald allegations, without there being any cogent and convincing reasons, transfer petition cannot be entertained.

7. In the circumstances, I do not find any merit in this petition and it is accordingly dismissed. Miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Dated: 14-12-2015
NRG

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

-

Tr.CMP No.63 of 2015

-

//WEB//

Dated: 14-12-2015

NRG