

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.312 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.S.No.136 of 2012 from the Court of the III Senior Civil Judge, City Civil Court, Secunderabad and transfer the same to the file of Principal District Court, Ranga Reddy District at L.B. Nagar to be tried along with O.S.No.1122 of 2012.

2. Heard both the counsel and perused the affidavit filed in support of the petition and the counter.

3. A perusal of the record reveals that one B. Srinivas Goud filed O.S.No.136 of 2012 on the file of the III Senior Civil Judge, City Civil Court, Secunderabad against the petitioner, for recovery of an amount of Rs.3,00,000/-. One Syndicate General Trading (Limited Liability Company) Incorporated with the Department of Economic Development, Government of Dubai, filed O.S.No.1122 of 2012, against B. Srinivas Goud for recovery of an amount of Rs.16,83,117.39ps.

4. The point that arises for consideration, in this petition is :

Whether there are any grounds to allow the transfer petition?

POINT :

5. It is needless to say that the Court can transfer the suits if common questions of fact and law are involved in both the suits. If there is a likelihood of conflicting judgments, the Court can transfer the matters from one Court to another to secure the ends of justice.

6. The cause of action for filing of O.S.No.136 of 2012 is entirely different to that of O.S.No.1122 of 2012. The cause of action for filing of both the suits is independent and separate. The relief sought in both the suits is not one and the same. The interesting aspect of this case is that the petitioner herein is not a party to O.S.No.1122 of 2012. It is a settled principle of law that a third party to the suit is not entitled to seek transfer of the suit except in exceptional cases. The facts of the case on hand will not fall within the ambit of the exceptional case so as to exercise the

power by this Court under Section 24 of C.P.C. The relief sought in both the suits is entirely different. If the plaintiff succeeds the suit, the defendant can recover the amount from B. Srinivas Goud in O.S.No.136 of 2012. If the company succeeds in O.S.No.1122 of 2012, it can recover the amount from B. Srinivas Goud.

7. A perusal of the counter reveals that the petitioner herein filed I.A.No.741 of 2013 in O.S.No.136 of 2012 before the trial Court under Order VII Rule 11 of CPC. After affording reasonable opportunity to both parties, the trial Court dismissed the petition filed by the petitioner. After disposal of I.A.No.741 of 2013, the petitioner filed the present petition seeking withdrawal of O.S.No.136 of 2012 from the file of III Senior Civil Judge, City Civil Court, Secunderabad and transfer the same to Principal District Judge Court, Ranga Reddy at L.B. Nagar.

8. This Court placing reliance on the decision of this Court in **Kanuru Basava Punnarao v Puttagunta Nageswar Rao**. Relevant portion reads as under:

“Normally the plaintiff has the right to choose the place of suing and the mere 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. Ultimately the question depends on the interests of justice and not the convenience of one party or the other.”

9. As per the principle enunciated in the case cited supra, if the questions of fact and law involved in both the suits are one and the same or at least identical, then the court can transfer the case to secure ends of justice.

10. In the light of the foregoing reasons, I am of the considered view that the petitioner failed to make out grounds much less valid grounds for allowing the petition. The petition lacks merits and bona fides. The point is accordingly answered.

10. In the result, the Transfer Civil Miscellaneous Petition is dismissed. The trial courts are hereby directed to dispose of the suits without being influenced by the observations made herein above. No costs.

Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 29.07.2015.

Gvl