

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.37 of 2015

ORDER :

This petition is filed to withdraw O.S.No.335 of 2007 from the file of Principal Junior Civil Judge, Amalapuram, East Godavari District, and transfer the same to any competent Court.

2. Petitioners are defendants in the above referred suit and they filed T.O.P.No.455 of 2014 before District Judge, Rajahmundry, and the learned District Judge after considering the objection of other side and also considering the remarks of Principal Junior Civil Judge, Amalapuram, dismissed the transfer O.P. Now, defendants filed this transfer C.M.P. on the self same grounds urged before the District Judge.

3. Heard arguments.

4. I have perused the material papers and also grounds for the transfer. As seen from the grounds, the main grievance of petitioners is that the batta filed by them for issue of Commissioner Warrant was not traced in the Court, when they made a representation without taking any action against the concerned staff, the Court below is proceeding with the trial and for that reason they sought transfer of the suit as the trial Court is not evincing any interest to issue Commissioner Warrant. But the said allegation is not a ground for invoking powers under

Section 24 of C.P.C. If batta is missed, nothing prevented petitioners to file a fresh batta with a delay condonation petition, so that the Court can issue warrant to the Advocate Commissioner. But without availing such opportunity invoking Section 24 C.P.C. for transfer, in my view, is not at all permissible. Learned District Judge rightly dismissed transfer petition as there are no grounds to reconsider the request. For these reasons, I am of the view that there are no grounds attracting the provision of Section 24 C.P.C. However, petitioners are permitted to approach the trial Court by filing batta for issue of Commissioner Warrant with delay condonation petition as trial Court shall consider the same.

5. Accordingly, transfer C.M.P. is dismissed at admission stage.

6. Miscellaneous Petitions, if any, shall stand closed.

S. RAVI KUMAR, J

30th January 2015.

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