

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.83 of 2015

ORDER :

This petition is filed under Section 24 of C.P.C. with a request to transfer O.S.No.784 of 2009 pending before Principal Senior Civil Judge, Ranga Reddy, to the Special Court under the A.P. Land Grabbing (Prohibition) Act, Hyderabad, to be tried along with L.G.C.No.35 of 2013 pending before Special Court.

2. Advocate for petitioner submitted that the dispute is in respect of plot Nos.59, 60 and 61 of Survey No.218/3 of Kondapur Village, Ranga Reddy District in both the matters and to avoid conflicting decisions, the suit pending before Principal Senior Civil Judge, Ranga Reddy has to be transferred to Special Court under the A.P. Land Grabbing (Prohibition) Act.

3. Heard arguments.

4. Advocate for petitioner submitted that the Special Court can play the role of a Civil Court, therefore, the provision under Section 24 of C.P.C. can be applied, but I am not in agreement with the submission of learned counsel for petitioner. In my view, the Civil Court's jurisdiction is entirely different from that of a jurisdiction of Special Court, though it may be applying the provisions of C.P.C.

5. Now, I feel it necessary to refer Section 24 of C.P.C.

to satisfy *prima facie* about the maintainability of the petition. Section 24 of C.P.C. read as follows:

General power of transfer and withdrawal. (1)

On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion, without such notice, the High Court or the District Court may, at any stage_

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same ; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section(1), the Court which 1[is thereafter to try or dispose of such suit or proceeding] may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this Section,_

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) "Proceeding" includes a proceeding for the execution of a decree or order.)

(4) The Court trying any suit transferred or withdrawn under this Section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it.

6. From a plain reading of Section 24 of C.P.C., it is clear that this Court can with draw any proceedings from

any Court subordinate to this Court and competent. Admittedly, Special Court under the A.P. Land Grabbing (Prohibition) Act, cannot be treated as subordinate to this Court. So far as competency is concerned, Civil Court's jurisdiction is conferred under the A.P. Civil Courts Act and the Special Court under the A.P. Land Grabbing (Prohibition) Act, is not one among the Civil Courts referred in the Civil Courts Act. So, both the limbs of Section 24 of C.P.C. are not at all attracted, therefore, the petition for transfer of a Civil suit from a Civil Court to the Special Court created under the A.P. Land Grabbing (Prohibition) Act, cannot be entertained, as such, petition is not maintainable.

7. For these reasons, transfer C.M.P. is dismissed, as not maintainable, at admission stage. No costs.

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

S. RAVI KUMAR, J

19th February 2015.

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