

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.170 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.S.No.535 of 2013 from the file of the I Additional Senior Civil Judge, Warangal and transfer the same to any competent court at Hyderabad for disposal in accordance with law.

2. Learned counsel for the petitioner submitted that the petitioner being an old aged person is facing much difficulty to attend the Court at Warangal. He further submitted that there is life threat to the petitioner if he goes to Warangal. Learned counsel for the respondent submitted that the present petition is filed with an ulterior motive to harass the respondent, who is none other than the wife of the petitioner.

3. The facts leading to filing of the present petitioner are briefly as follows: The marriage of respondent was performed with the petitioner on 15.8.1976 at Yadagirigutta, as per Hindu rites and caste customs. Immediately after the marriage, the respondent joined the petitioner to lead happy marital life. Out of lawful wedlock, they were blessed with a son and a daughter. They performed the marriages of their children. Unfortunately, the husband of the daughter of petitioner and respondent died. In order to look after the welfare of their daughter, the petitioner and respondent adopted their grandson (son of widowed daughter). The petitioner has voluntarily retired from service on 08.9.2007. For one reason or the other, disputes arose between the petitioner and respondent.

4. While things stood thus, the respondent filed O.S. No.535 of 2013 on the file of I Additional Senior Civil Judge Court, Warangal for declaration and consequential perpetual injunction.

5. The petitioner filed the present petition seeking transfer of the suit from I Additional Senior Civil Judge Court, Warangal to any competent court at Hyderabad. One of the grounds raised by the petitioner is that there is a life threat to him if he goes to Warangal. The health condition of the petitioner does not permit him to go to Warangal frequently in order to defend the suit.

6. It is an admitted fact that the petitioner and respondent originally hail from Kazipet, Warangal District. At present, the respondent is residing at Hyderabad. It is not in dispute that the suit schedule property is situated within the territorial jurisdiction of I Additional Senior Civil Judge Court, Warangal. It is needless to say that the suit has to be filed in the court within whose jurisdiction the suit schedule property is situated. Admittedly the courts in Hyderabad have no territorial jurisdiction to entertain O.S.No.535 of 2013. Section 16 CPC deals with institution of suits in respect of immovable property. Mere inconvenience to one of the parties to the proceeding is not a ground to transfer the suit. A perusal of the plaint *prima facie* reveals that the cause of action for filing of the suit arose within the territorial jurisdiction of Warangal courts. Viewed from any angle, there are no justifiable grounds to transfer the suit from Warangal to Hyderabad.

7. In **Tallapudi Bharati Vijaya Lakshmi v Lollugu Venkata Ranga Rao**, this Court held at para No.4 as under:

Section 24 of the Code of Civil Procedure cannot be pressed into service to transfer the suit to a Court, which does not have a semblance of jurisdiction, pecuniary, territorial, subject-matter, or other wise.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that it is not a fit case to transfer O.S. No.535 of 2013 from the file of I Additional Senior Civil Judge, Warangal.

9. Accordingly, the transfer petition is dismissed. As a sequel, miscellaneous petitions, if any filed in this transfer petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 12.06.2015.

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