

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.289 of 2014

ORDER:

This petition is filed to withdraw A.S.No.64 of 2013 from the file of V Additional District Judge, Rajahmundry, and transfer the same to this Court, to be tried along with A.S.No.305 of 2013.

2. Petitioners herein are appellants in A.S.No.64 of 2013 and petitioner No.1 herein is the sole appellant in A.S.No.305 of 2013. A.S.No.64 of 2013 is preferred against order dated 04.02.2013 in I.P.No.13 of 2010 on the file of the Senior Civil Judge, Ramachandrapuram, and A.S.No.305 of 2013 is preferred against order dated 04.02.2013 in O.S.No.81 of 2010 on the file of the Senior Civil Judge, Ramachandrapuram. According to affidavit of petitioners, the point involved in both the appeals is one and the same namely dispute is in respect of money said to have been borrowed on 26.11.2009 from respondent herein.

3. Heard arguments.

4. Advocate for petitioners submitted that I.P.No.13 of 2010 and O.S.No.81 of 2010 are tried simultaneously and both the matters are disposed of on the very same day, because of the pecuniary jurisdiction appeal in respect of O.S.No.81 of 2010 is filed before this Court and the appeal in respect of I.P.No.13 of 2010 is filed before District Judge and to avoid conflicting opinions, both the

appeals have to be tried by one Court.

5. Advocate for respondent submitted that there is no common point involved in both the appeals and if A.S.No.64 of 2013 is transferred from V Additional District Court, Rajahmundry, unsuccessful party will lose one appeal chance and objected for transfer of appeal from V Additional District Court, Rajahmundry, to this Court.

6. I have perused the material papers filed along with transfer C.M.P. Respondent has not filed any counter disputing the affidavit averments of petitioners.

7. As seen from the material papers, respondent herein filed O.S.No.81 of 2010 for recovery of money alleging that 1st petitioner herein borrowed Rs.6,00,000/- on 26.11.2009 by executing a demand promissory note and 1st petitioner herein contested the said suit and the suit is decreed in favour of respondent herein for Rs.6,37,200/- with subsequent interest. Respondent herein filed I.P.No.13 of 2010 to declare 1st petitioner herein as insolvent and to annul the gift deed executed by him on 05.01.2010 in favour of 2nd petitioner herein. I.P. was also allowed declaring 1st petitioner herein as insolvent and ordered the property to be kept in the hands of official receiver for its administration. Now the dispute between the parties in both the matters is one and the same, therefore, the appeals filed out of these matters have to be decided by one Court to avoid conflicting

opinions. Since A.S.No.64 of 2013, which is preferred against order in I.P.No.13 of 2010 is pending before V Additional District Court on account of pecuniary jurisdiction, the same has to be withdrawn and to be tried along with A.S.No.305 of 2013 pending before this Court.

8. For these reasons, the transfer C.M.P. is allowed and A.S.No.64 of 2013 is withdrawn from V Additional District Judge, Rajahmundry, and transferred to this Court, to be tried along with A.S.No.305 of 2013. No costs.

9. Miscellaneous Petitions pending, if any, shall stand dismissed.

S. RAVI KUMAR, J

19th March 2015.

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