

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.777 of 2014

ORDER:

This petition is filed to transfer O.S.No.4491 of 2008 from the file of II Additional Rent Controller-cum-XIV Junior Civil Judge, City Civil Courts, Hyderabad, to any other Court for disposal.

2. First Petitioner is defendant in O.S.No.4491 of 2008 and he filed affidavit in support of transfer C.M.P. According to his affidavit, respondents herein filed the above referred suit for eviction and mesne profits and also filed a petition under Order XV-A C.P.C. to strike out the defence and the trial Court allowed the said petition and said suit was decreed on 09.09.2011, against which, petitioner preferred appeal in A.S.No.345 of 2011 and that appeal was allowed and the judgment of the trial Court was set aside, but did not interfere with the order passed under Order XV-A C.P.C. and directed petitioner to deposit the rents. It is stated that there are no arrears of rent till date. He contended that he apprehend bias against him as he came to know there is a distant relationship between trial Judge and respondents herein. He contended as trial Court is proceeding in a hasty, petitioner filed transfer O.P.No.855 of 2014 before the Chief Judge, City Civil Courts, Hyderabad, and obtained *interim* stay and that the said O.P. was dismissed. After dismissal of transfer O.P.No.855 of 2014, again the trial Judge is proceeding in a hurried manner and if the suit is allowed there will be miscarriage of justice, therefore, he prayed for transfer of O.S.No.4491 of 2008 from XIV Junior Civil Judge, City Civil Courts, Hyderabad to any other Court.

3. Respondents filed counter disputing the affidavit averments of petitioners contending that trial Judge has granted sufficient adjournment for petitioners and the allegations made against the Presiding Officer are incorrect. It is further contended that this transfer C.M.P. is filed to protract the proceedings and that there are no

grounds to transfer.

4. This Court has called for the remarks of Presiding Officer, who submitted and disputed all the allegations including the allegation of distant relationship with petitioner. She further stated that she has no objection for transfer and that at present she is on maternity leave.

5. Now the point that would arise for my consideration in this transfer C.M.P. is:

Whether there are any grounds for transfer of O.S.No.4491 of 2008 from the file of II Additional Rent Controller-cum-XIV Junior Civil Judge, City Civil Courts, Hyderabad to any other Court?

POINT :

6. I have perused the material papers including the affidavit, counter affidavit and report of the Presiding Officer.

7. As seen from the material, though the suit was filed in the year 2008 written statement was filed in April, 2009 and trial is protracted on one ground or the other. As seen from the report of the Presiding Officer, it appears sufficient opportunities were given to petitioner to proceed with the matter. But, petitioner without availing such opportunities, went on protracting the proceedings on some pretext or the other. As seen from the report of Presiding Officer, at present she is on maternity leave, therefore, the allegation of bias cannot have any force as the matter has to be dealt with by in-charge Presiding Officer.

8. Considering the contentions and rival contentions of both parties and also considering the report of Presiding Officer, transfer C.M.P. is dismissed directing the in-charge Presiding Officer to dispose of the suit within two months from the date of receipt of this order. No costs.

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

S. RAVI KUMAR, J

26th March 2015.

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