

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

TrCMP No.441 of 2015

ORDER ::

This transfer civil miscellaneous petition is filed to transfer OS No.175 of 2013 on the file of Principal District Judge, Warangal, to the file of Principal District Judge, Ranga Reddy District or any other court having jurisdiction.

2. The case of the petitioners is that 2nd respondent filed suit OS No.175 of 2013 on the file of Principal District Judge, Warangal, against them seeking partition of the suit schedule property. 2nd respondent also filed domestic violence case, being DVC No.5 of 2013 on the file of Additional Judicial First Class Magistrate, Parakal, against the petitioners two years after the death of her husband, late Ramaraj. Late Ramaraj is the son of 1st petitioner and petitioners 2 and 3 are his sisters.

It is stated that the petitioners have filed counter and contesting the case before the Addl. JFCM, Parkal, Warangal District. That 2nd respondent has filed the suit for partition even prior to filing of the domestic violence case. That in her cross examination in DVC No.5 of 2013, the 2nd respondent had admitted that suit OS No.2407 of 2013 filed for perpetual injunction in respect of the property belonging to the 1st petitioner situated in Hyderabad was decreed against her and

that she is residing in Hyderabad. That the chief examination of 2nd respondent as PW-1 in DVC was recorded on 27-3-2015 and in that case also it was admitted by her that she is residing in Hyderabad. That 2nd respondent also admitted in her evidence that her husband filed petition against her for restitution of conjugal rights. That the 2nd respondent interfered with the properties belonging to petitioners 2 and 3, as such they have filed suit OS No.545 of 2013 on the file of II Junior Civil Judge, Ranga Reddy District, and the said suit is being contested by the 2nd respondent, as defendant in the suit.

3. It is stated that on 07-5-2015, the 3rd petitioner attended the Court of Addl. JFCM, Parkal, Warangal District, as a witness in DVC filed by the 2nd respondent and after her cross examination, the 2nd respondent assaulted her and abused her in filthy language. That the 3rd petitioner immediately reported the same to the learned Magistrate, by way of written complaint stating that she is apprehending danger in the hands of 2nd respondent and requested to take action. That on such complaint being made by the 3rd petitioner, the learned Magistrate has referred the same to Police, Parkal for investigation under Section 156(3) of Cr.PC vide Sr.No. 1175 of 2015. That the brother of 2nd respondent one Rama Raju was

examined in-chief as PW2 and it is stated that in his chief examination, he also admitted that the 2nd respondent is residing in Hyderabad. That 2nd respondent contested the case before the City Civil Court, Hyderabad, and the same was decreed against her. That 2nd respondent also contesting case at Ranga Reddy Court filed by the petitioners 2 and 3. That only to harass and to threaten the petitioners, the 2nd respondent has filed DVC before the Addl. JFCM, Parkal, and partition suit OS No.175 of 2013 before the Principal District Judge, Warangal. That the 1st petitioner being old aged, cannot go to Warangal and efficiently contest the case and petitioners 2 and

3, daughters of 1st petitioner are also being threatened with dire consequences if they seriously contest the case, as is evident from the complaint made by the 3rd petitioner. That the petitioners apprehend danger to their life and property at the hands of the 2nd respondent, but there is no such apprehension to the 2nd respondent at Hyderabad as the petitioners are legally contesting the matter and no prejudice or inconvenience would be caused to her to contest the cases at Hyderabad.

4. In the circumstances, the petitioners seek to transfer suit

OS No.175 of 2013 from the file of Principal District Judge, Warangal, to the file of Principal District Judge, Ranga Reddy or to any other competent Court having jurisdiction.

5. Counter affidavit is filed by the 2nd respondent wherein it is stated that after the death of her husband, petitioners thrown her out from their house and she is presently living with her parents at her native place in Narsappapalli and after going to her native village, she filed DVC at Parkal Court seeking maintenance for herself and also for her daughter and also for separate possession of the property. That thereafter she filed suit OS No. 175 of 2013 on the file of District Judge, Warangal, for partition and both the cases are pending adjudication. That the petitioners approached this Court with false and frivolous facts and sought to transfer the cases. That the suit on the file of Principal District Court, Warangal, is of the year 2013 and that evidence already commenced and it is posted for cross examination of PW1. That if the matter is transferred from Warangal Court to Ranga Reddy Court, it has to be renumbered again and the trial of the case will be commenced afresh and it will take a long time to complete. No prejudice would be caused, if the matter is declined to be transferred from Warangal Court to Ranga Reddy Court as the petitioners are silent from 2013 and it only after filing the affidavit in lieu of chief examination and commencement of trial, the present

application to transfer the matter is filed only to harass the 2nd respondent and her child. That the 2nd respondent, after the death of her husband, is dependent on her parents and taking shelter in her parents house and it is very difficult for her to engage an advocate at Ranga Reddy Court with huge money to defend her case. It is categorically stated that she is not residing in Hyderabad and she is residing with her minor daughter in her parents house at Narsappapalli and to come to Hyderabad, she has to change three buses and has to travel nearly 200kms from Parkal to attend the Court at Ranga Reddy District along with her minor child, which will cause her and her minor child great hardship. Therefore, the 2nd respondent seeks to dismiss the transfer CMP.

6. Learned counsel for the petitioners submits that in the light of the threat given by the 2nd respondent, when petitioners attended the Court at Parkal, the petitioners had to file the present transfer petition. It is also stated that the 2nd respondent admittedly contested the cases filed by the petitioners in the Courts at Ranga Reddy and as per the evidence of her own brother, she has been residing at Hyderabad and, therefore, to meet the ends of justice the cases may be transferred to any competent Court at Ranga Reddy District. On the other hand, learned counsel for the respondents submitted that the

respondents are residing in Parkal, Warangal District and not in Hyderabad as stated by them in their evidence. It is also submitted that the petitioners filed quash petition being Crl.P.No.6448 of 2013 and this Court finally disposed of the said petition on 08-07-2014 and while permitting the trial of the DVC to proceed, the trial Court was requested not to insist upon the presence of the petitioners before the Court for adjournments of the case. It is also contended that the petitioners have been contesting the cases from 2013 without pleading any difficulty, but now they have come up with this petition only to harass the respondents.

7. It is to be seen that in the evidence of PW-1 and her brother examined as PW-2 that earlier PW1 resided in Hyderabad, but now it is stated by learned counsel for the respondents, that the 2nd respondent is residing with her age old parents in Mallakkapeta village, Parkal Mandal, Warangal District. The suit filed by the 2nd respondent is of the year 2013 and the petitioners have been pursuing the matter from 2013 and the suit is stated to be posted for cross examination of PW-1. It has also come in evidence that the petitioners are examined as witnesses in the DVC which is also pending on the file of Addl. JFCM, Parkal. The only ground on which the petitioners seek to transfer of the case from Court at Warangal

to the competent Court at Ranga Reddy is that they apprehend danger in the hands of the 2nd respondent. Except the solitary instance of threatening the 2nd petitioner when she attended the Court at Parkal to give her evidence, there is no material to show that the petitioners apprehend danger that the hands of 2nd respondent. As seen from the record, the 2nd respondent is a lady having minor child and she has no male attendant to accompany her to attend the Court at Ranga Reddy. Whereas, the petitioners have been attending the Court at Warangal and they have also given their evidence in the suit filed by the 2nd respondent. It is not the case of the petitioners that the Court at Warangal has no jurisdiction to deal with the cases filed by the respondents. If the cases are transferred from the Court of Warangal to the Court at Ranga Reddy much hardship would be caused to the 2nd respondent and her minor child and, therefore, the balance of convenience is in favour of the respondents. In the circumstances, I do not find any merit in this petition and it is accordingly dismissed. Miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Dated: 04-11-2015

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