

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.405 of 2014

ORDER :

This petition is filed to withdraw O.S.No.307 of 2005 from the file of Principal Junior Civil Judge, Khammam, and transfer the same to Additional District Judge-cum-Special Sessions Judge for trial of cases under SCs and STs (POA) Act, 1989, to be tried along with O.S.No.71 of 2013 pending on the file of the Additional District Judge.

2. Petitioners are plaintiffs in O.S.No.71 of 2013 and first petitioner is sole defendant in O.S.No.307 of 2005 and respondents herein are plaintiffs in O.S.No.307 of 2005 and defendants in O.S.No.71 of 2013. First petitioner filed his affidavit in support of the petition and according to affidavit, he filed I.A.No.650 of 2013 in O.S.No.71 of 2013 seeking temporary injunction. While granting *status quo*, the Court below observed that petitioner has to move for transfer of O.S.No.307 of 2005 to be tried along with comprehensive suit O.S.No.71 of 2013. According to the affidavit of petitioner, he filed Transfer O.P.No.847 of 2013 before Principal District Judge, Khammam, but the same was dismissed on 25.02.2014 on the ground of delay and therefore, he preferred the present transfer C.M.P.

3. Respondents No.1 and 2 in spite of service of notice neither appeared in person nor through any advocate.

4. Heard advocate for petitioners.

5. Advocate for petitioners submitted that O.S.No.307 of 2005 is filed for permanent injunction in respect of Ac.2.00 gts. of land and O.S.No.71 of 2013 is filed for declaration, cancellation of sale deed and injunction in respect of same property and the issues involved in both the suits are one and the same and to avoid conflicting opinions, the suit in O.S.No.307 of 2005 on the file of the Principal Junior Civil Judge, has to be withdrawn and transferred to the Additional District Judge, to be tried along with comprehensive suit O.S.No.71 of 2013. He further submitted that when petitioners approached the District Court for this relief, that petition was dismissed on the ground of delay, but as on today O.S.No.307 of 2005 is at the stage of recall of PWs.1 and 3 and trial is not yet completed, therefore, no prejudice would be caused to the other side if the suit pending on the file of Principal Junior Civil Judge is withdrawn.

6. I have perused the material papers filed along with transfer C.M.P. The averments of petitioners remained unchallenged and as seen from the affidavit, it is clear that disputes between the parties is in respect of same property and as two suits are pending in respect of same property, it is better that both the suits are tried by one Court to avoid conflicting opinion.

7. For these reasons, I am of the view that the request of petitioners can be considered. Accordingly,

O.S.No.307 of 2005 is withdrawn from Principal Junior Civil Judge, Khammam and transferred to Additional District Judge-cum-Special Sessions Judge for trial of cases under SCs and STs (POA) Act, 1989, Khammam, to be tried along with O.S.No.71 of 2013 pending there.

8. Accordingly, transfer C.M.P. is allowed. No costs.

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

S. RAVI KUMAR, J

12th February 2015.

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