

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.233 of 2015

ORDER:

This petition is filed to transfer O.S.No.640 of 2008 from the file of Principal Junior Civil Judge, Mancherial, Adilabad District to any other Junior Civil Judge's Court in the district of Adilabad.

2. Petitioners herein are defendants No.2, 6, 8 and 10 in the above referred suit. According to affidavit of petitioner, who is defendant No.8, O.S.No.640 of 2008 is filed by respondents No.1 to 3 herein seeking permanent injunction in respect of land in Sy.No.39/4, measuring Ac.9.18 gts. situated at Seetharampally Village, Mancherial Mandal, Adilabad District and that he has also filed W.P.No.38173 of 2014 before this Court. He stated that the learned Principal Junior Civil Judge posted O.S.No.640 of 2008 for arguments and granted only one day time by posting the suit on 25.03.2015 for judgment, without hearing oral arguments of advocates and the Principal Junior Civil Judge made observations to the effect that petitioners herein have no case at all and on that they apprehended that they do not get justice at the hands of Principal Junior Civil Judge and that they have filed Tr.O.P.No.112 of 2015 before Principal District Judge, Adilabad, but the same was dismissed on 24.04.2015 without any valid reasons, therefore, they are constrained to file the present transfer C.M.P. for withdrawing O.S.No.640 of 2008 from Principal Junior Civil Judge at Mancherial and transfer the same to any Junior Civil Judge in Adilabad District.

3. Heard advocate for petitioners.

4. Advocate for petitioners submitted that the dismissal of Tr.O.P.No.112 of 2015 by the Principal District Court is not a bar to file petition under Section 24 C.P.C. before this Court as no revision is provided against the orders passed by the Principal District Judge. He has cited the ruling of this Court in **Kvaerner Cementation India**

Limited, Mumbai v. Bharat Heavy Plate and Vessels Limited, Visakhapatnam, and particularly, referred to para 6 of the judgment, whereunder this Court observed that even after dismissal of the petition by the District Judge, a fresh application seeking transfer of the same can be filed before High Court. There is no dispute with regard to the said proposition as to the maintainability of this application. But what has to be seen whether there are any sufficient grounds to entertain the application under Section 24 of C.P.C. As seen from the material, the very same grounds are urged before the learned District Judge and the District Judge after calling for the docket proceedings of the court, found that the allegations made in the affidavit are patently false.

5. I have perused the material papers filed in support of the transfer petition including the order of the learned District Judge. Here there is a specific averment in the affidavit filed in support of petition that the Junior Civil Judge without granting any time posted the suit to 25.03.2015 for arguments. But, as seen from the docket proceedings, which are extracted in the order of the learned District Judge, arguments of petitioners herein were heard on 11.09.2014 and after hearing reply argument of the other side on 19.09.2014, the Court below posted the matter for judgment to 08.10.2014 and thereafter for the reasons recorded in the proceeding sheet, judgment is not pronounced and only on 12.03.2015 it appears one I.A. is filed when the matter is at the stage of judgment. As seen from the docket proceedings, there is no hearing date on 25.03.2015 as alleged by the petitioners in their affidavit. So, patently, the affidavit averments are incorrect when compared with the docket proceedings of the Court below. Considering these aspects only, Principal District Judge, Adilabad, dismissed transfer O.P. When the District Judge held that affidavit averments with regard to hearing date of 25.03.2015 and alleged utterings from bench are baseless and contrary to the docket proceedings nothing is stated in the affidavit filed in support of this petition as to how such findings are incorrect. On the other hand, the very same averment is made in the affidavit filed here also. When the

affidavit averments of petitioner are compared with the docket proceedings of the trial Court, the apprehension complained is baseless. Therefore, I am of the view that the present petition is nothing but abuse of process of law, for which petitioner should be penalised suitably. On perusal of the material, I do not find any prima facie material even to order notice to the opposite party.

6. Accordingly, the transfer C.M.P. is dismissed at the admission stage with costs of Rs.5,000/- to be paid to the Telangana State Legal Services Authority.

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

S. RAVI KUMAR, J

28th April 2015.

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