

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
TR.CMP No.132 of 2015

ORDER:

1 This petition is filed under Section 24 C.P.C by the petitioner seeking to withdraw O.S.No.56 of 2009 from the file of the Additional District Judge, Kothagudem and transfer the same to any competent Court at Hyderabad.

2 Heard both sides and perused the material available on record.

3 The facts leading to filing of the present petition are, briefly, as follows:

4 The petitioner filed O.S.No.56 of 2009 on the file of the District Court, Khammam for a declaration to declare that the respondent is not entitled to withhold L.D Penalties of Rs.29,30,502/-. The respondent filed written statement opposing the claim of the petitioner. The suit is coming up for trial. At that point of time, the petitioner filed this petition seeking transfer of the suit from the Additional District Court, Kothagudem to any of the Courts at Hyderabad on the ground of convenience.

5 The learned counsel for the petitioner submitted that the corporate office of the respondent is situated at Hyderabad and hence it is convenient for both parties if the matter is transferred to Hyderabad. He further submitted that at present the suit is pending on the file of the Additional District Court, Kothagudem.

6 A perusal of the record clearly reveals that the head office of the petitioner is situated at Vijayawada. It is not out of place to extract the relevant portion of the cause of action and territorial jurisdiction paragraphs as mentioned in the plaint, which read as under:

“That the cause of action arose at Manuguru, where the property is situated and on 5.4.2006 and on 11.5.2006 when the site was handed over the plaintiff’s firm and on 24.7.07, 1.8.07, 23.8.07, 23.1.08, 9.4.08, 22.4.08, 22.6.08, 21.7.08, 27.8.08, 18.9.08. In all the above dates when the plaintiff’s firm addressed letters for revision of explosive cost and also extent the time as per the letter dated 25.9.08 and 26.11.07 when certain amounts were recovered and 28.11.07 work completion schedule was furnished and on all other dates which shown in the list of documents and finally on 29.8.09 when the writ was disposed and the cause of action is continues and recurring one. Thus the Hon’ble Court has got both pecuniary and territorial jurisdiction to entertain the suit.”

7 A perusal of the above paragraph clearly demonstrates that the cause of action for filing of the suit arose within the territorial jurisdiction of the Additional District Court, Kothagudem. It is not the case of the petitioner that the Additional District Court, Kothagudem has no pecuniary or territorial jurisdiction to entertain the suit. The registered office of the respondent is situated at Kothagudem. The petitioner executed the work contract with the respondent at Kothagudem, within the territorial jurisdiction of the Additional District Court, Kothagudem. No part of the cause of action arose within the limits of the Courts at Hyderabad. The head office of the petitioner/plaintiff is not situated at Hyderabad. Merely because the corporate office of the respondent is situated at Hyderabad, that itself is not a valid ground for transfer of the suit from the file of Additional District Court,

Kothagudem to Hyderabad. At this juncture, this Court is placing reliance on the ratio laid down in ***Kulwinder Kaur Alias Kulwinder Gurcharan Singh V. Kandi Friends Education Trust and Others***^[1] wherein the Hon'ble apex Court held at para No.23 as follows:

“Reading Sections 24 and 25 of the Code together and keeping in view various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by Courts. They are balance of convenience or inconvenience to plaintiff or defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit; issues raised by the parties; reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interested in the litigation; interest of justice demanding for transfer of suit, appeal or other proceeding, etc. Above are some of the instances which are germane in considering the question of transfer of a suit, appeal or other proceeding. They are, however, illustrative in nature and by no means be treated as exhaustive. If on the above or other relevant considerations, the Court feels that the plaintiff or the defendant is not likely to have a fair trial in the Court from which he seeks to transfer a case, it is not only the power, but the duty of the Court to make such order.

8 Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that there are no grounds much less valid grounds to transfer the suit from Khammam to Hyderabad.

9 Accordingly, this Tr.CMP is dismissed. As a sequel, miscellaneous petitions, if any, pending in this Tr.CMP, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 21st August, 2015.

Kvsn

[\[1\]](#) (2008) 3 SCC 659