

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.757 of 2014

ORDER:

This petition is filed to withdraw O.S.No.1357 of 2012 from the file of V Additional Senior Civil Judge, City Civil Court, Hyderabad, and transfer the same to III Additional Chief Judge, City Civil Court, Hyderabad, to be tried simultaneously along with O.S.No.281 of 2011 pending there.

2. Petitioner herein is plaintiff in O.S.No.281 of 2011 and defendant in O.S.No.1357 of 2012. According to affidavit of petitioner, he filed O.S.No.281 of 2011 for specific performance and permanent injunction and the same is pending before III Additional Chief Judge, City Civil Court, Hyderabad and in respect of the same property respondent herein filed O.S.No.1357 of 2012 for permanent injunction and both the suits are in respect of same property and to avoid conflicting opinions and in the interests of justice, have to be tried simultaneously by one Court. He further stated that present transfer C.M.P. is filed to withdraw the suit pending before V Additional Senior Civil Judge, City Civil Court, Hyderabad, and transfer the same to III Additional Chief Judge, City Civil Court, Hyderabad, where the comprehensive suit O.S.No.281 of 2011 is pending.

3. Heard arguments.

4. I have perused the affidavit filed in support of

transfer C.M.P. and also counter affidavit filed by 1st respondent.

5. As seen from the counter-affidavit, most of the contentions raised in the counter are in respect of merits of O.S.No.281 of 2011, which cannot be decided in a transfer C.M.P. The main contention relevant for the purpose of this transfer C.M.P. is that the dispute raised in both the suits are independent and different and the evidence has to be let in separately, therefore, there cannot be any conflicting judgments as apprehended by petitioner. But this objection cannot be accepted, because the property is same and the comprehensive suit is before III Additional Chief Judge, City Civil Court, Hyderabad, where the contentions and rival contentions of both parties have to be decided. As seen from the plaint in O.S.No.1357 of 2012, the respondents herein are questioning possession of petitioner herein in respect of same property. As rightly pointed out by advocate for petitioner, to avoid conflicting decisions, these two cases have to be tried by one Court. Considering the affidavit of petitioner and counter-affidavit of respondent, I am of the view that the request of petitioner can be considered by leaving it open to the III Additional Chief Judge, City Civil Court, Hyderabad, whether to try both the suits jointly or simultaneously after considering the material on record.

6. For these reasons, O.S.No.1357 of 2012 is

withdrawn from

V Additional Senior Civil Judge, City Civil Court, Hyderabad and transferred to III Additional Chief Judge, City Civil Court, Hyderabad for disposal in accordance with law. The III Additional Chief Judge, City Civil Court, Hyderabad, shall dispose of the interlocutory applications, within a period of (15) days from the date of receipt of records.

7. Accordingly, transfer C.M.P. is ordered. No costs.

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

S. RAVI KUMAR, J

9th April 2015.

Note:

Issue C.C. by tomorrow.

(b/o)
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