

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.292 of 2015

ORDER:

This petition is filed to withdraw O.S.No.19 of 2015 from the file of IV Additional District Judge Ranga Reddy District at L.B. Nagar and transfer the same to III Additional District Judge (FTC), Anantapur to be tried along with O.S.No.64 of 2014.

2. Brief facts leading to this transfer petition are as follows:

Petitioner herein filed O.S.No.64 of 2014 before District Judge, Anantapur for the reliefs of declaration in respect of 'A' schedule property and partition in respect of 'B' & 'D' schedule properties and also for rents from the date of institution and other reliefs. First defendant therein approached this Court for transfer of that suit from Anantapur to Ranga Reddy on the ground that some of the properties are situated at Ranga Reddy and this Court by order dated 01.12.2014 dismissed the transfer CMP No.643 of 2014 and thereafter sister-in-law of plaintiff in OS No.64 of 2014 filed a suit before Ranga Reddy Court in OS No.19 of 2015 in respect of item-4 of 'B' schedule property in OS No.64 of 2014 for declaration contending that she is the absolute owner in terms of a will.

3. Now the contention of petitioner is that as the property involved in both the suits is one and the same and to avoid conflicting opinions, both the suits have to be tried by one court. It is further contended that subsequent suit is filed only to defeat the rights of plaintiff in OS No.64 of 2014 which is an after thought.

4. Heard both sides.

5. The main ground on which petitioner herein sought transfer is to avoid conflicting decisions. But in a similar situation, the right of party is to invoke Section 10 of CPC where subject matter of the property is one and the same and parties to the suit either all or some or one of them are one and the same and transfer of the case is not a remedy since OS No.64 of 2014 is a comprehensive suit and the rights of parties will be determined in that suit.

6. Considering these aspects, I am of the view that this Transfer petition can be dismissed by giving liberty to petitioner, to invoke Section 10 of CPC.

7. Accordingly, this Transfer Civil Miscellaneous petition is dismissed by giving liberty to petitioner to invoke Section 10 of CPC and the Court concerned shall decide that application on merits without being influenced by any of the observations made herein. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

S. RAVI KUMAR, J

Date: 29-03-2016

gvl