

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CMP.No.619 of 2015

Date:07.04.2016

Between:

M/s. Gagan Impex Pvt.Ltd.,
A company registered under
Company Act, 1956,
Havin its office at D.No.11-7-6,
Verra Ramana Street,
Kothapet, Vijayawada,
Represented by its Managing
Director, Mr. Vithal Prasad Loya
and another.

... Petitioners.

AND

M/s.Bhanu Traders,
Shradedanad Gunj,
Nizamabad District,
Ep by its Proprietor,
Gaurang Kataria,
Nizamabad.

...Respondent.

The Court made the following:

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ORDER:

This application is filed to withdraw O.S.No.45 of 2014 from Principal District Judge, Nizamabad and to transfer the same to any competent Court at Vijayawada in Krishna District.

2. Petitioners are defendants in the above referred suit and according to affidavit, the suit is improperly and illegally filed at Nizamabad Court though no cause of action did take place at Nizamabad. According to petitioners, plaintiff completely ignored Section 20 of CPC, which mandates that the suit must be filed at the place where defendants reside voluntarily to conduct his ordinary course of business and if this test is applied, the Court at Nizamabad has no jurisdiction and the Court at Vijayawada is competent to try the suit therefore, the same has to be transferred from Nizamabad to Vijayawada.

3. Other side filed counter disputing the affidavit averments of the petitioners and contended that goods were supplied at Nizamabad and orders were placed at Nizamabad and that jurisdiction aspect is not a ground for transfer.

4. Heard both sides.

5. This transfer petition is filed on the ground of territorial jurisdiction. The plea of territorial jurisdiction is a defence available to a party and that cannot be a ground for transfer of the suit under

Section 24 CPC. The objection with regard to jurisdiction and the answer of plaintiff are matter of appreciation of facts which the trial Court has to deal with and if the petitioners want to challenge the suit on the ground of territorial jurisdiction they can only request the trial Court to take up that as a preliminary issue and decide it but they cannot invoke Section 24 CPC.

6. For these reasons, Tr.CMP is liable to be dismissed and accordingly dismissed. No costs.

7. As a sequel, miscellaneous petitions, if any, pending in this Tr.CMP., shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:07.04.2016

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