

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.141 of 2016

ORDER:

This petition is filed to withdraw O.P.No.108 of 2013 from the file of Motor Accident Claims Tribunal-cum-XXV Additional Chief Judge, City Civil Court, Hyderabad, to any Court at Sanga Reddy in Medak District, for disposal, in the interests of justice.

2. Petitioners filed claim petition before the Motor Accident Claims Tribunal-cum- XXV Additional Chief Judge, City Civil Court, Hyderabad, in the year 2013 claiming compensation of Rs.10,00,000/- for the death of husband of petitioner No.1, father of petitioner Nos.2 and 3 and son of petitioner No.4 by name J. Srinivas and petitioner No.1 filed her affidavit and according to her affidavit, petitioner No.1 and her family are residents of Pastapur Village, Zaheerabad Mandal, from the beginning and after the death of her husband one of her relatives being an Advocate asked her to file petition for compensation for the death of her husband in the motor vehicle accident claims Tribunal and they gave consent to the advocate to appear before the Court and he filed O.P.No.108 of 2013 before Motor Accident Claims Tribunal-cum- XXV Additional Chief Judge, City Civil Court, Hyderabad, and she forcibly left her native place for

livelihood and was temporarily residing in Nallakunta, Hyderabad, in a rented house, but now she shifted to her native place, Pastapur Village, Zaheerabad Mandal. It is further contended that all the witnesses are from Medak District and that she is a poor lady and it is inconvenient for her and her witnesses to come to Hyderabad for giving evidence and as there is a Court at Sanga Reddy, which is nearer to her place, she prayed for transfer of O.P.

3. Heard advocate for petitioners.

4. Advocate for petitioners reiterated affidavit averments of petitioner No.1.

5. As seen from the O.P. in the jurisdiction para, it is specifically mentioned that petitioners are residing at Nallakunta and the offices of 2nd respondent-Insurance Company are also at Hyderabad, therefore, it falls within the jurisdiction of Hyderabad Court and it has alone got jurisdiction to entertain petition. There is no whisper in the petition about her permanent residence and her forcible temporary residence at Nallakunta, which are referred in the affidavit. Though O.P. is filed in the year 2013, it appears petitioners have not evinced any interest in prosecuting the case and it is not known why at this stage this transfer C.M.P. is filed on the ground that she is native of Pastapur Village, Zaheerabad Mandal and that it could be convenient for her if the O.P. is transferred to Sanga Reddy Court. Admittedly, petitioner No.4 is the mother of

the deceased. Even her address was also shown as resident of Nallakunta and the affidavit is silent as to her present residence and except showing residence of 4th petitioner as Pastapur Village, Zaheerabad Mandal in the cause title. Nothing is whispered about actual residence of petitioner No.4. Cases cannot be transferred whenever a party shifts from one place to another place ignoring the territorial jurisdiction of the claim and when petitioners specifically averred with regard to the jurisdiction of the claim in their main O.P. simply because they have shifted their residence from Nallakunta to Pastapur Village, Zaheerabad Mandal, their request for transfer cannot be accepted. On a scrutiny of the affidavit material,

I am of the view that the grounds envisaged under Section 24 of C.P.C. are not at all attracted and transfer C.M.P. can be dismissed at admission stage directing Court below to decide the O.P. as expeditiously as possible as it is a old matter.

6. With the above observation, transfer C.M.P. is dismissed at admission stage.

7. Miscellaneous petitions pending, if any, shall stand closed.

S. RAVI KUMAR, J

3rd March 2016.

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