

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

TR. C.M.P.Nos. 806 and 807 of 2015

COMMON ORDER:

Since the issue involved and the respondents in both the transfer petitions are one and same, they are heard together and being disposed of by this common order.

The facts of the case, in brief, are that Tr.C.M.P.No.806 of 2015 is filed by one Sathi Veera Raghava Reddy, while Tr.C.M.P.No.807 of 2015 is filed by one Mallidi Surreddy. They filed O.S.Nos.444 and 445 of 2011 on the file of the Senior Civil Judge, Ramachandrapuram, East Godavari District, against the 1st respondent on the foot of a promissory notes dated 16.03.2010 and 12.08.2010 respectively. It is alleged that during pendency of the suits, the 1st respondent executed a sale deed dated 18.08.2011 in favour of the 2nd respondent in respect of her tiled house situated in an extent of 196 square yards of land in R.S.No.117, only to avoid repayment of the amounts covered by the promissory notes and the sale deed is sham, nominal and created for the purpose of avoiding the debt. Then, the petitioners filed I.P.No. 1 of 2012 on the file of the Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-X Additional District Judge at Rajahmundry, East Godavari District, against the respondents seeking to declare the 1st respondent as insolvent and to annul and cancel the sale deed dated 18.08.2011 executed by the 1st respondent in favour of the 2nd respondent. It is stated that during trial in the I.P., the petitioner in Tr.C.M.P.No.806 of 2015 was examined as

P.W.1 and, in cross-examination, the counsel for the respondents gave a suggestion with regard to maintainability of the I.P. and without obtaining money decrees in favour of the petitioners, the I.P. cannot lie. Therefore, in order to avoid conflicting of judgments and for proper and effective adjudication of the lis between the parties, the petitioners filed the present transfer petitions seeking to withdraw the suits on the file of the Senior Civil Judge, Ramachandrapuram, and transfer the same to the Court of the Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-X Additional District Judge at Rajahmundry, East Godavari District, to be tried along with I.P.No.1 of 2012.

Though notices are served on the respondents, neither there is any representation nor any counter is filed on their behalf.

Learned counsel for the petitioners submits that the 1st respondent is already attending the Court of X Additional District Judge at Rajahmundry for defending herself in I.P.No.1 of 2012 and, as such, the suits may be transferred to the said Court and transfer of the suits will not cause any inconvenience to the respondents. The learned counsel also submits that as the 2nd respondent is staying at Rajahmundry, if the suits are transferred to the Court at Rajahmundry, it will be convenient for him to attend the Court at Rajahmundry.

It is to be seen that on the allegation that the 1st respondent transferred her property in favour of the 2nd respondent, after filing of the suits on the file of the Senior Civil

Judge at Ramachandrapuram, East Godavari District; the petitioners filed I.P.No.1 of 2012 on the file of the X Additional District Judge at Rajahmundry. The 2nd respondent is a resident of Rajahmundry and the 1st respondent is already attending the Court of X Additional District Judge at Rajahmundry for defending herself in O.P.No.1 of 2012. If the suits are transferred to the Court at Rajahmundry, a common date can be given and it will be convenient for the respondents to attend the Court on the same day in stead of attending the Courts at two different places. Hence, it cannot be said that transfer of the suits from the Court at Rajahmundry to the Court at Rajahmundry will cause hardship to the respondents. Further, as the 2nd respondent is a resident of Rajahmundry, it will be convenient for her to attend the Court at Rajahmundry. The convenience of the parties also can be looked into, while considering the transfer of the proceedings. In view of the above facts and circumstances, I am of the view that no prejudice will be caused to the respondents, if the suits are transferred to the Court at Rajahmundry.

Accordingly, both the Tr.C.M.Ps are allowed and O.S.Nos.444 and 445 of 2011 are withdrawn from the Court of the Senior Civil Judge at Ramachandrapuram, East Godavari District, and transferred to the Court of the Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-X Additional District Judge at Rajahmundry, East Godavari District. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in

the transfer petitions shall stand dismissed.

A. RAJASHEKER REDDY, J.

28th January, 2016
cbs

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