

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

TRANSFER CIVIL MISCELLANEOUS PETITION No.629 of 2015

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ORDER:

This petition is filed to withdraw O.S.No.589 of 2014 from the file of X Chief Judge, City Civil Court, Hyderabad and transfer the same to the file of X Additional District Judge, Tirupati to be tried along with O.S.No.162 of 2013 and O.S.Nos.23 and 93 of 2014.

2. Case of the petitioner is that his son Kilari Sivasekhar Naidu filed O.S.No.162 of 2013 on the file of X Additional District Judge, Tirupati against his wife and daughters for specific performance of Memorandum of Agreement entered into between the parties before the mediators. It is stated that the petitioner's second daughter by name Latha filed O.S.No. 23 of 2014 on the file of X Additional District Judge, Tirupati for partition and separate possession of plaint schedule properties. In the said suit, the petitioner filed written statement and contested the suit. The petitioner filed O.S.No.93 of 2014 on the file of X Additional District Judge, Tirupati against his wife, son and his second daughter and her husband for declaration of title and permanent injunction. It is stated that as a counterblast, respondent herein filed O.S.No.589 on the file of X Chief Judge, City Civil Court, Hyderabad, for recovery of an amount of Rs.53,67,920/- on the foot of a promissory note, dated 31.01.2012.

3. Learned counsel for the petitioner submits that the subject property in O.S.No.162 of 2013, O.S.Nos.23 and 93 of 2014 is one and the same and the suits are filed for specific performance of Memorandum of Agreement, partition and separate possession of pliant schedule property and declaration of title and permanent injunction. He further submits that the respondent is also a party in O.S.No.93 of 2014 pending on the file of X Additional District Judge, Tirupati and he is attending the Court regularly in connection with the said case. In all the suits common evidence was let in. Therefore, if O.S.No.589 of 2014 pending on the file of X Chief Judge, City

Civil Court, Hyderabad is withdrawn and transferred to X Additional District Judge, Tirupati, it would not cause inconvenience to the respondent.

4. On the other hand, learned counsel for the respondent submitted that O.S.No.589 of 2014 on the file of X Chief Judge, City Civil Court, Hyderabad was filed for recovery of money basing on a promissory note said to have been executed at Hyderabad and all the witnesses are residents of Hyderabad; that the result in O.S.No.589 of 2014 will have no bearing on other suits and that the issues are also not common in all the three suits and opposed for transfer.

5. The subject matter in O.S.No.162 of 2013 and O.S.Nos.23 and 93 of 2014 may be same, but, so far as O.S.No.589 of 2014 is concerned, it is filed for recovery of money basing on a promissory note. The decision in O.S.No.162 of 2013 and O.S.Nos.23 and 93 of 2014 will have no bearing on the decision of O.S.No.589 of 2014. Therefore, I do not see any reason to transfer O.S.No.589 of 2014 pending on the file of X Chief Judge, City Civil Court, Hyderabad to the file of X Additional District Judge, Tirupati.

6. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

A.RAJASHEKER REDDY, J

FEBRUARY 05, 2016

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Date: 05.02.2016

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