

.HONOURABLE SRI JUSTICE S.RAVI KUMAR

TRANSFER C.M.P.No.178 of 2016

Dated 7-4-2016

Between:

Sunkara Venkateswara Rao.

..Petitioner.

And:

Yennam Ramesh Kumar and others.

..Respondents.

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HONOURABLE SRI JUSTICE S.RAVI KUMAR

TRANSFER C.M.P.No.178 of 2016

ORDER:

This application is filed to transfer O.S.No.71 of 2004 from Principal Junior Civil Judge, Sangareddy to Principal Senior Civil Jude, Sangareddy to be tried along with O.S.No.166 of 2008.

Heard both sides.

Petitioner herein is plaintiff in O.S.No.71 of 2004 which is filed for declaration of title and consequential injunction in respect of 'A and B' schedule properties and originally., the suit was filed against three persons and subsequently, 4th defendant who was a third party purchaser of 'B' schedule property was impleaded and thereafter, that 3rd party purchaser filed O.S.No.166 of 2008 also for declaration of title and injunction and for cancellation of sale deed dated 13-8-2003 in favour of plaintiff on the basis of which, plaintiff claimed title.

O.S.No.71 of 2004 is at the stage of arguments whereas O.S.No.166 of 2008 is at the stage of trial and now the contention of petitioner is that both the suits have to be disposed of simultaneously as the properties involved are one and the same and the contentions of

both parties are also similar.

Respondents objected for transfer mainly on the ground that the petitioner is protracting the case by one pretext or the other, and O.S.No.71 of 2004 has come up for arguments long back and the same could not be disposed of on one reason or other.

I have perused the material papers filed on behalf of both parties and also the order of learned District Judge dated 9-3-2016 in transfer O.P.No.80 of 2016.

As seen from the material, the very same ground was urged before the learned District Judge and the learned District Judge dismissed the application holding that the second suit is filed at the stage of cross examination of P.W.1 and whereas O.S.No.71 of 2004 is at the final stage of arguments and therefore, it is not desirable to effect transfer as requested.

Learned District Judge has considered all the aspects and dismissed the application and I do not find any fresh ground to re-consider the request of the petitioner. Further, if really petitioner was diligent to see that both suits are disposed of simultaneously, he ought to have taken this step immediately after filing of the suit by the 3rd party purchaser i.e., in the year 2008 itself or he ought to have invoked Section 10 of C.P.C. without availing these remedies at the fag end of the conclusion of the proceedings, the petitioner invoked the provision of Section 24 C.P.C. which in my view cannot be permitted.

For these reasons, this Transfer C.M.P. is dismissed. No costs.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI

KUMAR

Dated 7-4-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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