

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Tr.C.M.P.No.409 of 2016

ORDER:

This transfer C.M.P., under Section 24 of the Code of Civil Procedure, 1908, was filed by a claim petitioner/third party requesting to withdraw the claim petition in E.A.No.5 of 2016 in E.P.No.1 of 2013 in O.P.No.421 of 2012 from the file of the Court of learned VII Additional District Judge, Medak at Sanga Reddy, and transfer the same to any other Court of equivalent competent jurisdiction at the same place for enquiry and disposal in accordance with the procedure established by law.

2. I have heard the submissions of Sri M.V.Subba Reddy, learned counsel appearing for petitioner/claim petitioner ("claim petitioner" for brevity) and Ms.S.Vani, learned counsel appearing for the 1st respondent/decree holder. The 2nd respondent is said to be the judgment debtor.

3. I have perused the material record. I have given detailed and thoughtful consideration to the facts and submissions.

The grievance of the petitioner is against the Presiding Officer of the VII Additional District Court, Medak at Sanga Reddy. It is inter alia stated in the petition that the learned Presiding Judge, for the reasons best known to him, openly proclaimed in the Court that the claim petition is collusive in nature and that the same should be dismissed and that the claim petition ought to have been dismissed even without numbering the petition.

3.1 Thus, casting aspersions on the learned Judge of the Court below and expressing apprehensions that if the claim petition is to be enquired into and

disposed of by the said learned Judge the petitioner may not get fair justice, this transfer miscellaneous petition is filed.

4. The 1st respondent/decreed holder filed a counter denying the allegations.

5. At the hearing, though it is submitted that the request in the transfer miscellaneous petition may be considered on its merit, this Court is not inclined to make any observations or record any findings on the correctness of the allegations made in the petition by the claim petitioner. In deed, in any matter where allegations are made against the officer and aspersions are cast on the conduct of the Judicial Officer, whether the said allegations are true or not, the Judicial Officer would not be inclined to take up such matter for disposal on merits and would always make a request to this Court, while denying the allegations and aspersions cast against him, to transfer the case from his Court in the interests of parties and also to meet the ends of justice. Viewed thus, this Court finds that without going into the correctness of the allegations made in the petition, an order which sub serves the ends of justice needs to be passed.

6. In the result, the petition is allowed and the claim petition E.A.No.5 of 2016 in E.P.No.1 of 2013 in O.P.No.421 of 2012 as well as the said EP with all pending EAs, if any, is withdrawn from the file of the Court of the learned VII Additional District Judge, Medak at Sanga Reddy, and is transferred to the Court of the learned Principal District Judge, Medak at Sanga Reddy, for enquiry and disposal in accordance with procedure established by law.

Since the matter is a sufficiently old matter, it is needless to state that the transferor Court shall expeditiously submit the duly indexed record to the transferee Court and that on receiving the record, the transferee Court shall dispose of the claim petition and other EAs, if any, as well as the EP as expeditiously as possible and in any event, within three months from the date of receipt of the record from the transferor Court.

Pending miscellaneous applications, if any, shall stand closed.

M.SEETHARAMA MURTI, J

21st November 2016

N.B :

- (i) Issue C.C. by 23.11.2016.
- (ii) Copy of this order be communicated to the Transferor and Transferee Courts

(b/o)
ajr

