

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.C.M.P No.23 of 2016

ORDER:

This petition is filed to withdraw O.S.No.274 of 2014 from the file of Special Assistant Agent to Government and Sub-Divisional Magistrate, Mobile court at Bhadrachalam and transfer the same to any Court at Hyderabad having competent jurisdiction.

2. Petitioners herein are defendants in O.S.No.274 of 2014, which is filed for perpetual injunction in respect of immovable property. According to affidavit filed in support of the petition, the Collector instructed the Sub-Divisional Magistrate to take action under Section 340 Cr.P.C., for the alleged manipulation of the record. It is stated that till now no action is taken and petitioners filed complaint before the learned Magistrate, Hyderabad under C.C.SR.No.106 of 2016. Petitioners contended that if suit is allowed to be tried in that Court there is every chance to respondent/plaintiff to tamper municipal records and fabricate documents, and therefore, the suit has to be transferred to Hyderabad or to any competent court having jurisdiction to try the suit.

3. Respondent filed counter disputing the affidavit averments of petitioners and contended that the prayer for transfer of the suit to Hyderabad or to any court is not maintainable as the respondent hails from Tribal community and only Agency Court has got jurisdiction, and allegations with regard to manipulation and other aspects are in correct and that suit is properly instituted in Mobile Court, Bhadrachalam, which is competent court and got territorial jurisdiction over the suit schedule property. It is further contended that there is no basis for the claim of petitioners and

that transfer OP is not maintainable.

4. Heard both sides

5. Advocate for petitioners mainly contended that petitioners are apprehending for missing of the records or meddling with the documents filed into the court, as already such an incident had taken place in that court, for which, the complaint under Section 340 Cr.P.C., was directed, therefore, O.S.No.274 of 2014 has to be transferred.

6. Advocate for respondent opposed the request of petitioners' counsel and contended that while disposing C.R.P., this Court has directed to dispose of the suit within a period of three months in accordance with law, therefore the contention of petitioners is not tenable.

7. I have perused the material papers including order of this court dated 17.11.2005. The ground urged for transfer is not convincing. If really, the apprehension of petitioners is correct, they can as well request the Court to keep all the documents in a sealed cover, so that there may not be any scope for tampering or meddling with those papers. Since this court has directed Agency Court to dispose of suit within a stipulated time, the transfer petition is not at all maintainable and it is liable to be dismissed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed by giving liberty to petitioners to seek appropriate relief in the trial court for preserving the documents. No costs.

Miscellaneous Petitions, pending in this petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 11-04-2016.

gvl