

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.190 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.S.No.107 of 2015 pending on the file of the Court of Junior Civil Judge, Atmakuru, and transfer the same to any other competent court at Ongole.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the respondent herein filed O.S.No.107 of 2015 against the petitioner for recovery of the suit amount basing on the promissory note dated 14.01.2014 on the file of the Junior Civil Judge, Atmakur. The petitioner herein filed written statement denying the execution of promissory note in favour of the respondent. As per the recitals of the plaint, on 14.01.2014 the petitioner herein borrowed an amount of Rs.2,00,000/- from the respondent and executed a promissory note on even date agreeing to repay the same with interest at 12%per annum. As per the recitals of the plaint, the promissory note dated 14.01.2014 was executed at Atmakur of Kurnool district. The petitioner herein who is the defendant in the suit is a resident of Sngarayakonda of Prakasam district.

4. A perusal of the record reveals that the petitioner herein filed written statement denying all the averments made in the plaint including alleged execution of promissory note in favour of respondent. At the time of argument, learned counsel for the petitioner submitted that respondent (plaintiff's) side evidence was closed and the case was posted for petitioner (defendant) side evidence. It is the contention of

the petitioner that he did not execute a promissory note dated 14.01.2014 in favour of the respondent. Whether the petitioner has executed a promissory note in favour of the respondent or not is purely a disputed question of fact, which cannot be gone into while deciding the transfer petition. It is the case of the petitioner that due to ill health, he is not in a position to travel from Singarayakonda to Atmakur. Except the averments made in the affidavit, even a single scrap of paper is filed to prove the health condition of the petitioner. It is the further case of the petitioner that anti social elements threatened him to pay the suit amount to the respondent. The apprehension of the petitioner is not supported by any material much less cogent and convincing material. It is not uncommon to take this type of pleas in order to protract the proceedings. If the petition is allowed on flimsy grounds certainly it would cause untold hardship to the respondent. Even as per the averments made in the plaint, the cause of action for filing of the suit arose within the territorial jurisdiction of the Junior Civil Judge Court, Atmakur. There are no grounds much less valid grounds to transfer the suit. The petition lacks merits and bonafides.

5. In the result, the transfer civil miscellaneous petition is dismissed. As a sequel, miscellaneous petitions, pending if any shall stand closed.

21st March 2017
Rns

T.SUNIL CHOWDARY, J

