

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

I.A.No.2 of 2018 in C.R.P.No.1744 OF 2017

&

I.A.No.3 of 2018 in C.R.P.No.1625 of 2017

and

Tr.C.M.P.Nos.431 and 445 of 2017

COMMON ORDER: *(oral)*

These two I.A.Nos.2 and 3 of 2018 have been filed under the caption "For Being Mentioned"

2. Vide I.A.Nos. 2 and 3 of 2018, the applicant/plaintiff seeks direction thereby to clarify the orders passed by this Court in C.R.P.No.1625, 1638, 1744 and 2080 of 2017 dated 20.07.2018 that there is no impediment in passing orders in Tr.C.M.P.Nos.431 and 445 of 2017 filed on 10.07.2017 seeking transfer of O.S.Nos.48 and 49 of 2016 from the file of Senior Civil Judge, Repalle, Guntur District to V Additional District Judge, Medak, Sangareddy and be tried along with connected cases in O.S.Nos.79 and 80 of 2016 respectively.

3. It is pertinent to mention here that vide order dated 20.07.2018, both parties had agreed to maintain *status quo* qua the suit schedule property till disposal of the suit, and accordingly, this Court directed the trial Court to decide the suit by giving opportunity to both parties within one year from the date of receipt of a copy of the order.

4. It is not in dispute that Transfer C.M.P.Nos.431 of 2017 and 445 of 2017 were pending at the time of passing of

the order dated 20.07.2018 in CRP Nos.1625, 1638, 1744 and 2080 of 2017. However since the counsels for the parties have not pointed out about these Transfer petitions therefore this Court has not passed any order in the transfer petitions mentioned above.

5. Vide the Transfer CMP Nos.431 & 445 of 2017, the petitioner/plaintiff seeks direction thereby to transfer O.S.Nos.48 and 49 of 2016 on the file of Senior Civil Judge, Guntur District at Repalle to V Additional District Judge, Medak at Sangareddy to be tried along with O.S Nos.79 and 80 of 2016.

6. There are total five (5) suits are pending adjudication between the same parties and undisputedly both parties are staying at Hyderabad. In O.S No.80 of 2016 prayer is as under :

“a. Declare the transactions covered by the sale transactions in respect of the plaint schedule property covered by Sale deed NO.757/07 dated 06.01.2007, Sale deed NO.3255/07 dated 02.02.2007 , Sale deed NO.3256/07 dated 02.02.2007, Sale deed No.3259/07 dated 02.02.2007, Sale deed No.3328/07 dated 03.03.2007, Sale deed No.3329/07, dated 03.02.2007, Sale deed No.10627/07 dated 07.05.2007, Sale deed No.10628/07 dated 07.05.2007, Sale deed No.10629/-7, dated 07.05.2007, Sale deed No.10630/07 dated 07.05.2007 and Sale deed No.10631/07 dated 07.05.2007 registered in the office of District Registrar, Medak District at Sangareddy in favour of the defendant as benami;”

7. In another O.S No.48 of 2016, the prayer is as under:

“a. Declare the transaction covered by the sale transactions in respect of the plaint schedule property covered by Sale deed dated 07.09.2006 registered as Document No.3630 of 2006 in the office of Sub Registrar, Repalle in favour of the defendant as benami.”

8. Since the issue in both the suits mentioned above is one and the same and parties are same, therefore it would be chances of different opinion from the different Court. In case of **Durgesh Sharma Versus Jayashree¹**, the Hon’ble Supreme Court has held as under:

“47. In our considered opinion, where several courts having jurisdiction are subordinate to one appellate Court, an application for transfer may be made to such appellate Court and the Court may transfer a case from one court subordinate to it to another court subordinate to it. Likewise, where such courts are subordinate to the same High Court, an application may be made and action may be taken by the High Court transferring a case from one Court subordinate to it to any other Court subordinate to that High Court. But where such courts are subordinate to different High Courts, it is only the supreme Court (this Court) which may pass an order of transfer. In other words, if two courts are subordinate to different High Courts, one High Court has no power, jurisdiction or authority to transfer a case pending in any court subordinate to that High Court to a court subordinate to other High Court. It is only the Supreme Court (this Court) which may order the transfer.”

9. In view of decision of the Supreme Court mentioned above, and the fact that no prejudice would be caused to either of the parties, I hereby direct the trial Court let O.S Nos.48 and 49 of 2016 be transferred from the file of Senior Civil Judge, Repalle, Guntur to V Additional District Judge, Medak, Sangareddy, to be tried along with O.S.Nos.79 and 80 of 2016, just to avoid conflicting judgments.

¹ (2008) 9 Supreme Court Cases 648

10. Accordingly, I.A.Nos.2 and 3 of 2018 are allowed. Consequently, Tr.C.M.P.Nos.431 and 445 of 2017 are disposed of. No order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J.

Date : 18-09-2018
Gvl

