

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Transfer Civil Miscellaneous Petition No.440 of 2016

ORDER:

The present Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, 1908 (for short, 'C.P.C.') by the petitioners-respondents in O.S. No.3 of 2011 on the file of Family Court-cum-III Additional District Judge, Srikakulam, which was filed for recovery of Rs.16,29,837/- based on a promissory note dated 15.6.2008 and even filed I.A. No.151 of 2011 in O.S. No.3 of 2011 for attachment of residential house property of the petitioners situated at Bhimavaram, West Godavari District, Andhra Pradesh State, and the residential house of the petitioners falls within the territorial jurisdiction of III-Additional District Judge, Bhimavaram, West Godavari District.

2. Sri K.Shankara Narayana, learned counsel for the petitioners would submit that the property under attachment is situated at Bhimavaram, West Godavari District, State of Andhra Pradesh. The suit ought to be tried by the III-Additional District Judge, Bhimavaram, West Godavari District, and therefore, requests to transfer the said suit pending on the file of Family Court-cum-III Additional District Judge, Srikakulam to the file of III-Additional District Judge, Bhimavaram, West Godavari District.

3. Sri Srinivas Ambati, learned counsel for the respondents would submit that the trial in the suit was already commenced and in

fact it is coming up for continuation of evidence of D.Ws.1 and 2 and stood posted to 13.04.2018. He also relies on a decision in **Girijan Co-operative Corporation Limited, Visakhapatnam v. M/s. Hukmichand Sachion Kumar, Hyderabad and others**¹ for the proposition that convenience to both parties is the predominant factor and not the question of existence or lack of territorial jurisdiction of respective Courts that has to be considered while dealing with the request for transfer of suits.

4. So far as the present case is concerned, the plaintiffs' side is already over and the petitioners' side has commenced and both petitioners appear to have been examined themselves as D.Ws.1 and 2 by filing affidavit in chief-examination and at their request for continuation of chief-examination the matter stood posted to 13.04.2018 for the last occasion. Thus, when trial is almost getting concluded, the question of transferring the suit on the mere ground that the property under attachment is situated within the territorial limits of different courts located in different Districts does not arise.

5. When convenience of the parties is kept in view as held in **Girijan Co-operative Corporation Limited, Visakhapatnam v. M/s. Hukmichand Sachion Kumar, Hyderabad** (1 supra), there is no merit in the Transfer Civil Miscellaneous Petition.

¹ 2007 (2) ALT 18

6. Hence, the present Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the Transfer Civil Miscellaneous Petition shall stand closed.

A.SHANKAR NARAYANA

Dt. 16.04.2018
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