

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.1457 OF 2018

ORDER :

This Civil Revision Petition is filed against order dated 05.12.2017 in Transfer Original Petition No.501 of 2017, wherein and whereby the Court below dismissed the application filed by the petitioner under Section 24 of CPC to withdraw the suit in O.S.No.21 of 2016 from the file of Additional District Judge, Narasapuram and to transfer to the file of III Additional District Judge, Bhimavaram.

It is the case of the petitioner that petitioner filed a Debtor Insolvency Petition in I.P.No.18 of 2016 against the respondent and 19 others for adjudicating him as an insolvent by vesting the 'B' schedule properties to Officer Receiver, West Godavari District, Eluru and to discharge him from all the liabilities and it is pending on the file of Senior Civil Judge, Bhimavaram. The respondent filed suit in O.S.No.21 of 2016 against the petitioner for passing preliminary decree, which is pending on the file of Additional District Judge, Narasapuram. The suit in O.S.No.21 of 2016 and I.P.No.18 of 2016 are coming up for trial and enquiry, and it is just and convenient to try both the matters at the same place and in the same court premises to avoid conflicting decisions. That if the suit in O.S.No.21 of 2016 is tried and disposed of earlier than I.P.No.18 of 2016, great hardship and irreparable loss would be caused to him. The respondent is threatening to file false cases against him and the petitioner

apprehending danger in the hands of the respondent. As such, the petitioner is not in a position to attend the Court in Narasapuram.

The respondent filed counter denying the petition averments stating that the petitioner executed a registered mortgage deed dated 01.12.2014 by mortgaging item No.2 of the petition schedule property in I.P.No.18/2016, and borrowed an amount of Rs.20,00,000/- and failed to mention the said fact in I.P.No.18 of 2016. The petitioner cannot escape from his liability of payment of debt covered under registered mortgage deed by way of filing Insolvency Petition and that only to drag on the proceedings in O.S.No.21 of 2016, he filed the present petition.

Learned counsel for the petitioner submits that the property in O.S.No.21 of 2016 and IP No.18 of 2016 is one and the same, as such, it is better if both the cases are tried together by same court, to avoid conflicting judgments and the evidence that is to be led in is also common. He would further contend that the respondent in I.P.No.18 of 2016 is the plaintiff in O.S.No.21 of 2016, as such, both the IP and the suit should be heard together, but the Court below, without considering the said aspect, dismissed the application.

In this case, it is to be seen that I.P.No.18 of 2016, as noticed by the Court below is not pending on the file of III Additional District Judge, Bhimavaram. The Court below also found that the allegation of the petitioner that he is apprehending danger in the hands of the respondent is without any substance. The petitioner has not produced any valid and sufficient reasons

to transfer the suit OS No.21 of 2016 to the Court of the III Addl. District Judge, Bhimavaram.

A perusal of the order passed by the Court below goes to show that there is no infirmity and no illegality is brought to my notice in this revision petition by the learned counsel for the petitioner, warranting interference under Article 227 of the Constitution of India.

In view of above facts and circumstances, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

09-03-2018
kvs



A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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