HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

TRANSFER CMP.No.76 OF 2016

ORDER:

The present transfer CMP is filed under Section 24 of the Civil Procedure Code, 1908, requesting to withdraw A.S.No.18 of 2015 pending on the file of the District Judge, Anantapur, and to transfer the same to this Court for being heard with A.S.No.82 of 2015 pending on the file of this Court, in the interest of justice.

2. Heard Sri Raja Reddy Koneti, learned counsel for the petitioner, and Sri Ramana Allu, learned counsel for respondent Nos.9 and 10.

3. Learned counsel for the petitioner would submit that the subject matter in O.S.No.59 of 2010 on the file of the III Additional District Judge, Anantapur, and the subject matter in O.S.No.110 of 2013 on the file of the Additional Senior Civil Judge, Anantapur, is one and the same. Learned counsel would further submit that the petitioner herein filed O.S.No.59 of 2010 for specific performance of an agreement of sale, dated 25.09.2009, directing the 9th respondent herein represented by its Principal, the 10th respondent herein, to execute a regular sale deed in her favour, and the same was partly decreed on 24.11.2014 granting alternative relief of refund of Rs.22,50,000/- and Rs.1,00,000/-, rejecting the claim of the petitioner for enforcement of agreement of sale. Learned counsel would also submit that aggrieved over the judgment and decree in O.S.No.59 of 2010, the petitioner herein preferred A.S.No.82 of 2015

before this Court and obtained interim injunction on 12.02.2015 restraining the defendant from alienating the suit schedule property, pending the appeal.

4. It is further submitted by the learned counsel that O.S.No.110 of 2013 on the file of the Additional Senior Civil Judge, Anantapur, was filed by the heirs of the donor by name Bandi Nallappa of the very same subject property, seeking cancellation of the registered gift deed, dated 25.06.1997, executed by the donor on the ground that the object for which the gift was made was not being adhered to by defendant No.1 – Society, the 9th respondent herein. Learned counsel would also submit that in O.S.No.110 of 2013, the petitioner herein is the 3rd defendant, whereas respondent Nos.9 and 10 herein are defendant Nos.1 and 2. When O.S.No.110 of 2013 was decreed on 19.03.2015 by cancelling the registered gift deed, dated 25.06.1997, executed by the donor in favour of the 9th respondent herein, the petitioner herein preferred A.S.No.18 of 2015 before the District Judge, Anatapur, and the same is pending. Therefore, the learned counsel would submit that to avoid conflicting findings being recorded in both the suits and since the subject matter in both the suits is one and the same and the parties i.e., the plaintiff and the defendant in O.S.No.59 of 2010 are also the parties in O.S.No.110 of 2013, it is just and reasonable to accede to the request of the petitioner.

5. Learned counsel for the respondents strongly opposed the request on the ground that the reliefs claimed by the plaintiffs in both the

suits, respectively, are distinct and different and, therefore, requests to dismiss the present petition.

6. When the subject matter in both the suits is one and the same and the parties i.e., the plaintiff and the defendant in O.S.No.59 of 2010 are also the parties in O.S.No.110 of 2013, certainly, it would be just and convenient to withdraw the appeal suit in A.S.No.18 of 2015 from the file of the District Judge, Anantapur, and transfer the same to this Court for being heard with A.S.No.82 of 2015 pending on the file of this Court so as to avoid any conflicting findings being record in both the appeal suits.

7. Accordingly, the present transfer CMP is allowed. A.S.No.18 of 2015 pending on the file of the District Judge, Anantapur, is withdrawn and transferred to this Court for being heard with A.S.No.82 of 2015 pending before this Court.

Miscellaneous petitions, if any, pending in the present petition stand closed. No order as to costs.

JUSTICE A.SHANKAR NARAYANA

Dt: 27.04.2018
v v

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते