

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.403 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.S.No.789 of 2014 from the file of the Court of the I Additional Senior Civil Judge, Guntur, and transfer the same to the file of the Court of the I Additional District Judge, Guntur, for trial and disposal together with O.S.No.618 of 2015.

2. Heard the learned counsel for the petitioners.

3. A perusal of the record reveals that respondent Nos.1 to 3 have filed O.S.No.789 of 2014 on the file of the Court of the I Additional Senior Civil Judge, Guntur, against the petitioners for declaration and consequential perpetual injunction in respect of an extent of 325 square yards in Plot No.118, D.No.3 of Agathavarapadu Village. The fourth petitioner filed O.S.No.618 of 2015 against respondent Nos.1 to 3 herein (defendant Nos.21 to 23) and others for declaration in respect of an extent of Ac.1.00 cents in D.No.3 of Agathavarapadu Village. During pendency of the suit, the petitioners filed T.O.P.No.74 of 2016 on the file of the Principal District Judge, Guntur, seeking to withdraw O.S.No.789 of 2014 from the file of the Court of the I Additional Senior Civil Judge, Guntur, and transfer the same to the file of the Court of the I Additional District Judge, Guntur. The learned Principal District Judge, Guntur, dismissed the said petition, after affording a reasonable opportunity to both parties.

4. A perusal of the record reveals that the subject matter of the suit schedule property in O.S.No.789 of 2014 is 325 square yards

in Plot No.118, D.No.3 of Agathavarapadu Village, Pedakakani Mandal, Guntur District. The subject matter of the suit schedule property in O.S.No.618 of 2015 is an extent of Ac.1.00 cents out of Ac.7.06 cents in D.No.3 of Agathavarapadu Village. The extent of the land covered in both the suits is not one and the same. The relief sought in both the suits is not one and the same. The *lis* involved in both the suits is not one and the same. A perusal of the record further reveals that the petitioners did not choose to implead defendant Nos.1 to 20 and 24 in O.S.No.618 of 2015 as parties to the transfer petition. It is needless to say that the party, who seek the relief under Section 24 of C.P.C., has to implead all the parties in both the suits. In the absence of defendant Nos.1 to 20 and 24 in O.S.No.618 of 2015, it is not possible for the Court to grant the relief sought by the petitioners. The trial Court rightly considered this aspect. If the petition is allowed behind the back of defendant Nos.1 to 20 and 24 in O.S.No.618 of 2015, certainly it will affect their rights. Without impleading defendant Nos.1 to 20 and 24, the present petition is not maintainable. The trial Court considered all these aspects and dismissed the petition. I am fully endorsing with the findings recorded by the trial Court. The petition lacks merits and *bona fides*.

5. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 10.07.2018

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