

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.882 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.S.No.273 of 2016 from the file of the Principal District Court, Guntur, and transfer the same to the file of the Additional District Court, Tanuku.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the respondent filed O.S.No.273 of 2016 on the file of the Principal District Court, Guntur, against the petitioner for recovery of an amount of Rs.11,00,000/- basing on the promissory note dated 22.07.2013. The petitioner filed written statement denying the averments made in the plaint. During pendency of the suit, the petitioner filed the present petition seeking to transfer the suit from Principal District Court, Guntur, to Additional District Court, Tanuku.

4. The contention of the petitioner is that the respondent in collusion with the plaintiffs in O.S.Nos.242 of 2015, 243 of 2015, 299 of 2015 and O.S.No.300 of 2015 fabricated the promissory notes with an ulterior motive.

5. The petitioner is a resident of Penugonda Village of West Godavari District. It is needless to say that the plaintiff is entitled to file a suit where the cause of action or part of cause of action arose or where the defendant has been ordinarily residing carrying on the business. A perusal of the plaint *prima facie* reveals that the promissory note was executed at Guntur.

6. The predominant contention of the learned counsel for the petitioner is that the respondent in collusion with the others filed different suits against the petitioner. The plaintiffs are different in all the suits. A perusal of the record reveals that the petitioner filed a complaint against the plaintiffs in all the suits. Mere lodging of the complaint that itself is not a valid ground to transfer all the suits. It is needless to say the burden of proof lies on the petitioner to establish the stand taken by him in the written statement. There is no doubt if there are any valid grounds, the Court can transfer the suits from one Court to another. In the instant case, the plaintiffs are different in each suit. This Court shall not express any opinion with regard to the various contentions raised by the petitioner in view of pendency of the suit. The petitioner has not assigned reasons much less cogent and valid reasons for transfer of the suit. If the suit is transferred from Guntur to Eluru, it may cause untold hardship to the respondent.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is not a fit case to allow the transfer petition.

8. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 14.12.2018
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