

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.No.4802 of 2018

ORDER:

This Civil Revision Petition is filed questioning the order dated 11.06.2018 passed by the Principal District Judge, Vizianagaram in I.A.No.843 of 2018 in Transfer O.P.No.218 of 2018.

The respondent herein filed the said Transfer O.P.No.218 of 2018 challenging an order passed on the administrative side by the Principal District Judge, Vizianagaram transferring H.M.O.P.No.4 of 2018 from the Court of the Senior Civil Judge, Vizianagaram to the Court of Senior Civil Judge, Bobbili.

According to the averments in the said petition, the said order was passed on administrative grounds, as the revision petitioner herein (who is the respondent therein) is also a Judicial Officer posted in Vizianagaram District. Questioning the said transfer, Transfer O.P.No.218 of 2018 was filed under Section 24 of C.P.C with the following prayer:

“Therefore the petitioner humbly prays the Honourable court to rescind the proceedings dt.19-4-2018/20-4-2018 withdrawing the case H.M.O.P.No.4 of 2018 from the court of Senior Civil Judge, Vizianagaram and transferring the same to the Court of Senior Civil Judge, Bobbili and to retransfer the said case either to the court of Senior Civil Judge, Vizianagaram or to any court of competent jurisdiction at Vizianagaram in the interests of justice.”

Along with the said Transfer O.P, I.A.No.843 of 2018 was filed seeking stay of all further proceedings in H.M.O.P.No.4 of 2018 which was transferred to the Court of Senior Civil Judge, Bobbili.

Learned counsel for the revision petitioner points out that while the Interlocutory Application was filed only for stay of all further proceedings,

the Principal District Judge, Vizianagaram entertained the Transfer O.P. itself, which was filed seeking to rescind his order passed on the administrative side, granted a relief in the interim application which is far beyond what is sought in the main O.P. itself and also fixed a schedule for disposal of the entire matter within two to four days.

The contention of the learned counsel for the revision petitioner is two fold. The first ground is that, in the Transfer O.P, both the parties agreed that they have no notice of the case being tried at Bobbili. The second ground is that when the prayer sought for in the Interlocutory Application is only for stay of all further proceedings pending decision of the Transfer O.P, the impugned order passed by the Principal District Judge is totally contrary to law and that, at best, he could only have granted stay or refused to grant stay. However, on the contrary, the Principal District Judge directed the Senior Civil Judge, Bobbili to dispose of the matter within a period of four days.

This Court ordered notice to the respondent. Despite service of notice, the respondent did not appear. Therefore, the C.R.P is taken up for hearing.

This Court, after perusing the documents submitted and after hearing the learned counsel, is of the opinion that the learned counsel for the revision petitioner has made out a point for interference by this Court. The Principal District Judge, Vizianagaram should first consider whether the transfer to Bobbili is correct in view of the averments made in the petition and counter in the T.O.P. Without considering these questions, the Principal District Judge, Vizianagaram has passed the impugned order on 11.06.2018 fixing the schedule for disposal of the case. While the endeavour of the Principal District Judge to get a quick disposal of the matter can be appreciated, the question which still

remains to be answered is: when both the parties have no objection for the Senior Civil Judge, Vizianagaram trying the case, should the Court transfer the case? Convenience of parties is a major reason for ordering transfer. Here, both the parties have gone on record stating that they have no objection if the Senior Civil Judge, Vizianagaram hears the matter. In addition, this Court notices that a final order is passed in the T.O.P., while hearing the Interlocutory Application.

This Court is, therefore, of the opinion that the impugned order cannot stand. The order dated 11.06.2018 passed in I.A.No.843 of 2018 in Transfer O.P.No.218 of 2018 is set aside. The Principal District Judge, Vizianagaram is directed to decide the Transfer O.P.No.218 of 2018 itself afresh considering the petition averments and the counter filed in T.O.P.No.218 of 2018 and after hearing both the parties.

With these directions, the Civil Revision Petition is allowed. The Principal District Judge, Vizianagaram is directed to dispose of Transfer O.P.No.218 of 2018 within a period of 30 days from the date of receipt of a copy of this order.

As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

(D.V.S.S.SOMAYAJULU, J)

24th September, 2018.
JSU

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU



C.R.P.No.4802 of 2018

Date: 24.09.2018

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