

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.564 of 2018

ORDER:

This petition is filed under Section 24 CPC seeking to withdraw O.S.No.60 of 2017 on the file of the Principal District Judge Court, Kadapa, and transfer the same to Principal District Judge Court, Nellore.

2. Heard the learned counsel for the petitioner and perused the material on record.

3. A perusal of the record reveals that the respondents have filed O.S.No.60 of 2017 on the file of the Principal District Judge Court, Kadapa against the petitioner for recovery of an amount of Rs.35,87,500/- with interest. A perusal of the record further reveals that the petitioner executed a mortgage deed in favour of the respondents. The contention of the learned counsel for the petitioner is that the respondents taking advantage of the innocence of the petitioner, created the mortgage deed dated 24.12.2014. Whether the mortgage deed is a forged one or not has to be decided during the course of full fledged trial. Merely because the petitioner lodged a complaint to the police alleging that the mortgage deed is a forged one by itself is not a valid ground for transfer of suit from one Court to another Court. The second contention of the learned counsel for the petitioner is that there is no cause of action for filing the suit. Even assuming but not conceding the submissions of the learned counsel for the petitioner, absence of cause of action is not a ground for transfer of the suit. By seeking transfer of the suit from one court to another

court, the petitioner if not directly or by necessary implication admits the cause of action. Whether the suit is filed basing on a valid cause of action or not will be decided at the time of full fledged trial only. It is a settled principle of law that the suit can be filed within the territorial jurisdiction of the Court where the cause of action part of cause of action arose. A perusal of the copy of the plaint *prima facie* reveals that the cause of action arose within the territorial jurisdiction of the Court of Principal District Judge, Kadapa. Simply because the petitioner is a widow that itself is not a valid ground to transfer the suit from one court to another court. There are no grounds much less valid grounds to allow the petition. If the petition is allowed, it may cause untold hardship to the respondent when compared to the petitioner. The petition lacks merits and bonafides and the same is liable to be dismissed.

4. In the result, the transfer C.M.P. is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

30th August 2018

Rns