

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.709 of 2016

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw O.S. No.199 of 2012 from the file of the I Additional Senior Civil Judge Court, Guntur and transfer the same to the file of the III Additional District Court, Guntur to be tried along with O.S.No.17 of 2006.

2. Heard learned counsel for both the parties.

3. A perusal of the record reveals that second respondent filed O.S.No.199 of 2012 on the file of the Court of I Additional Senior Civil Judge, Guntur, against the petitioner for eviction from the suit schedule property. The petitioner filed O.S.No.17 of 2006 on the file of the III Additional District Court, Guntur against the respondents for specific performance of agreement of sale. While the things stood thus, the petitioner filed T.O.P. No.96 of 2011 on the file of the Principal District Court, Guntur, and the same was dismissed. Hence, the present petition is filed.

4. The point that arises for consideration is:

Whether there are any grounds to allow the petition?

5. It is not in dispute that O.S.No.17 of 2006 is filed by the petitioner against the respondents for specific performance of agreement of sale. The second respondent filed O.S.No.199 of 2012 for eviction of the petitioner from the suit schedule property. Admittedly, suit schedule property in both the suits is one and the same. It is the case of the petitioner that first respondent executed agreement of sale in his favour in respect of the suit schedule property. It is his further case that in respect of the same property, the first respondent executed

registered sale deed in favour of the second respondent. The first respondent is not a party to O.S.No.199 of 2012. The relief sought in O.S.No.199 of 2012 is entirely different to that of the relief sought in O.S.No.17 of 2006.

6. A perusal of the record reveals that after completion of the evidence on both sides, the trial Court posted O.S.No.17 of 2006 for arguments. The petitioner was very much aware of the pendency of O.S.No.199 of 2012 from the year 2012. For the reasons best known, the petitioner waited for a period of two years before filing T.O.P. No.96 of 2014.

7. The *lis* involved in both the suits is not one and the same. No common question of fact or law is involved in both the suits. Even if both the Courts are allowed to adjudicate both the suits independently, it would not lead to conflicting of judgments. Learned Principal District Judge, Guntur considered the material available on record, in right perspective, and dismissed T.O.P. No.96 of 2014. Learned District Judge has assigned reasons much less cogent and valid reasons for dismissal of the T.O.P. I am fully endorsing the findings recorded by the Court below. There are no grounds much less valid grounds to interfere with the orders passed by the Court below. There are no grounds to allow the petition.

8. Accordingly, the Transfer C.M.P., is dismissed. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 29.11.2018
YS