

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.128 of 2019

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908 (CPC), is filed by the petitioners seeking to transfer O.P.No.97 of 2019 from the file of I Additional Chief Judge, City Civil Court, Secunderabad, to the file of District Judge, Motor Accidents Claims Tribunal (MACT), Karimnagar, for trial and disposal in accordance with law, by clubbing with O.P.No.508 of 2015.

2. Heard the learned counsel for both sides and perused the record.

3. Learned counsel for the petitioners would submit that the petitioners, who are wife and children of late Murugam Umapathi, who died in a motor accident occurred on 18.01.2015, filed O.P.No.508 of 2015 on the file of District Judge, MACT, Karimnagar, seeking compensation. Thereafter, respondent Nos.1 to 4 herein, who are also claiming to be wife, children and mother of late Murugam Umapathi, filed O.P.No.98 of 2016 on the file of XXIV Additional Chief Judge, City Civil Court, Hyderabad, which was later transferred to the Court of I Additional Chief Judge, City Civil Court, Secunderabad, and re-numbered as O.P.No.97 of 2019, seeking compensation. The issues and questions, which are required to be determined in both the OPs., are almost similar. Both the OPs., are filed seeking compensation on account of death of Murugam Umapathi. The second OP., i.e., O.P.No.97 of 2019 is filed subsequent to filing of O.P.No.508 of 2015. The witnesses etc., are residing within the territorial jurisdiction of Motor Accidents

Claims Tribunal, Karimnagar, and it is also convenient to the petitioners to proceed with enquiry. In the event of adjudication of two OPs., in two different places, there would be conflict of decisions, which would cause prejudice to both parties and ultimately, prayed to withdraw O.P.No.97 of 2019 from the file of I Additional Chief Judge, City Civil Court, Secunderabad, and transfer the same to the file of District Judge, MACT, Karimnagar, for trial and disposal in accordance with law along with O.P.No.508 of 2015.

4. On the other hand, learned counsel for respondent Nos.1 to 4 would contend that respondent Nos.1 to 4 are poor persons and they do not get any pension. Petitioners herein are also made parties in O.P.No.97 of 2019. The Court at Secunderabad is convenient to respondent Nos.1 to 4 to seek appropriate remedy and ultimately, prayed to dismiss the transfer application.

5. On the other hand, learned Standing Counsel for respondent No.6/Insurance company did not support both parties to the litigation and submitted that O.P.No.508 of 2015 is coming up for counters of the respondents therein.

6. In view of the submissions made by both sides, the point of determination is:

“Whether O.P.No.97 of 2019 pending on the file of I Additional Chief Judge, City Civil Court, Secunderabad, can be withdrawn and transferred to the file of District Judge, MACT, Karimnagar District”.

7. Admittedly, both O.P Nos.508 of 2015 and 97 of 2019, are filed claiming compensation on account of death of late Murugam Umapathi, who alleged to have died in a motor accident occurred on 18.01.2015. In both the O.Ps., parties are one and the same. The issues and points that are required to be adjudicated in both the O.Ps are also similar. If both the O.Ps are allowed to be tried by different Motor Accidents Claims Tribunals, there may be variation in the Awards and the Awards may also conflict. For consistency and unity in the order, both the O.Ps are required to be disposed of by one of the Tribunal. O.P.No.508 of 2015 is filed earlier to O.P.No.97 of 2019, wherein respondent Nos.1 to 4 herein are also parties. Both parties are claiming financial constraints to proceed at the respective places. But financial constraints are not a ground to allow or disallow the application. Section 10 of the C.P.C reads thus:

“Stay of Suit- No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court having jurisdiction to grant the relief claimed, or in any Court beyond the limits of established or continued and having the jurisdiction.”

8. Instead of staying the proceedings in O.P.No.97 of 2019, it is appropriate to withdraw O.P.No.97 of 2019 from the file of I Additional Chief Judge, City Civil Court, Secunderabad, and transfer the same to the file of District Judge, MACT,

Karimnagar, for trial and disposal in accordance with law along with O.P.No.508 of 2015.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and O.P.No.97 of 2019 is withdrawn from the file of I Additional Chief Judge, City Civil Court, Secunderabad, and transferred to the file of the District Judge, Motor Accidents Claims Tribunal (MACT), Karimnagar, for trial and disposal in accordance with law along with O.P.No.508 of 2015. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

31st December, 2019
YVL

Dr. SHAMEEM AKTHER, J

