

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

TRANS. CIVIL MISC.PETITION NO: 284 OF 2019

Between:

Ranga Rao Name (Retd) S/O.N.V.N.Naidu aged about 46 years, occupation
Business office at 1 Gunrock Enclave, Secunderabad Telangana 500 009

...PETITIONER

AND

1. Smt Cherukuri Subhadra w/o Mark Mackenna Anthony aged about 38 years, occupation. House wife r/o H No 219, LG Lake Dew, Nuratjo Cross Bileshivale Bangalore North, Dr Shivarama Karanth Nagar Bangalore, Karnataka
2. Mr C. Krishna Babu, s/o late Koteshwara Rao aged about 69 years, occupation Chartered Accountant
3. Mrs Asha Cherukuri, w/o C Krishna Babu aged about 57 years, occupation Service (both are r/o 76 West Marredpally, Road No 2, Secunderabad)

...RESPONDENTS

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to order withdrawal of suits OS No 208/18, from the file of the court of learned V Additional District Judge, Bhongir and transfer them to any of the competent courts in the twin cities for being tried together and disposed in the interest of justice

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings in OS No 208/18 on the file of the court of learned V Additional District Judge, Bhongir pending disposal of transfer CMP

Counsel for the Petitioner: SRI. KANDEPI HANUMANTHA RAO

Counsel for the Respondent Nos. 1to 3: SRI. Shashi Kiran

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.284 of 2019

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908 (CPC), is filed by the petitioner/defendant, requesting to withdraw O.S.No.208 of 2018 pending on the file of V Additional District Judge, Bhongir, and transfer the same to any competent Court in twin cities i.e, Hyderabad or Secunderabad, for trial and disposal in accordance with law.

2. There is no representation for the petitioner, despite the matter being listed today under the caption "for orders". On last occasion also, there was no representation for the petitioner. Therefore, the arguments of learned counsel for the respondents were heard and orders were reserved.

3. In the affidavit filed in support of the transfer petition, the petitioner pleaded that he is the Chairman and Managing Director of M/s. Narne Estates Pvt Ltd and the respondent Nos.1 to 3 herein have filed the subject suit in O.S.No.208 of 2018 against him in the personal capacity instead of making the said company as party to the suit. It is submitted that his son, who is the Director of M/s. Narne Estates Pvt. Ltd, filed two separate suits i.e, O.S.No.211 of 2018 against respondent Nos.1 and 2 and O.S.No.20 of 2019 against respondent Nos.1 to 3 and another, before the V Additional District Judge, Bhongir, seeking the relief of declaration and consequential

permanent injunction. During the pendency of said suits, on the instigation of respondents, some unsocial elements and local land grabbers deliberately tried to encroach into the suit schedule properties. Several complaints have been made to the local police and authorities concerned, when the petitioner's employees were threatened with dire consequences. It is further submitted that in the event of trial of subject suit in the Court at Bhongir, there is every chance of the respondents influencing the witnesses and tampering the evidence, which causes irreparable loss and grave injustice to the petitioner. Furthermore, as both parties are residing in Hyderabad city, it would be safe and convenient for them if the suit in O.S.No.208 of 2018, pending on the file of V Additional District Judge, Bhongir, is transferred to any competent Court in twin cities, for trial and disposal in accordance with law.

4. The submissions made by the learned counsel for the respondents are that the grounds mentioned in the affidavit filed in support of the transfer petition are false and baseless. Those grounds cannot be taken into consideration to transfer the subject suit and ultimately prayed to dismiss the same.

5. As seen from the material placed on record, the subject suit in O.S.No.208 of 2018 is filed by the respondents/plaintiffs before the V Additional District Judge, at Bhongir, against the petitioner/defendant seeking perpetual injunction in respect of the suit schedule property situated at Kondamadugu Revenue Village, Bibinagar Mandal, Yadadri-Bhongir District. The

grounds on which the petitioner is seeking transfer of the subject suit are that on the instigation of respondents, some unsocial elements and local land grabbers deliberately tried to encroach into the suit schedule properties and that several complaints were made to the local police and authorities concerned when the petitioner's employees were threatened with dire consequences and that in the event of trial of subject suit in the Court at Bhongir, there is every chance that the respondents may influence the witnesses and tamper the evidence, which causes irreparable loss and grave injustice to the petitioner.

6. Here, it is relevant to state that power of transfer under Section 24 of CPC, must be exercised with due care and attention and in the interest of justice. The Court should decide the conflicting interest. Paramount consideration is justice and if the ends of justice demands transfer of case, the Court shall not hesitate to do so. In the instant case, the main allegation is that there are chances of the respondents influencing the witnesses being produced on behalf of the petitioner herein in the subject suit. Admittedly, there are strained relations in between the parties to the litigation. Except making allegations as mentioned *supra*, there is no iota of evidence to substantiate the same. Furthermore, no witnesses are examined in the subject suit yet, to hold that an attempt is made to influence the witnesses. If there is any such attempt, it is open to the petitioner to complain about the same before

the trial Court. Further, it is also open to the petitioner to put criminal law into motion against the offenders. The Courts are impartial in dispensation of justice to the litigants and the Courts do not succumb to any tactics or pressure and the Courts do not allow any party to meddle with the dispensation of justice. Furthermore, there is nothing to hold that the respondents are influential and they are capable of influencing witnesses in the subject suit or the Court, as the case may be. Merely because the parties are residing at Hyderabad, it cannot be a ground to accede the request of the petitioner. The cases are required to be tried by the respective Courts having jurisdiction. The averments made in the transfer petition do not merit consideration to grant the relief as sought for. The Transfer Civil Miscellaneous Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Sd/- B. SATYAVATHI,
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The V Additional District Judge, Bhongir
2. One CC to SRI. Shashir Kiran, Advocate (OPUC)
3. One CC to SRI. KANDEPI HANUMANTHA RAO Advocate [OPUC]
4. Two CD Copies



HIGH COURT

DRSAJ

DATED:22/09/2020

ORDER

TRCMP.No.284 of 2019



DISMISSING THE TR. C.M.P

ASIA 5
17/10/2020