

THE HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

Tr.CMP Nos.137 and 47 of 2021

COMMON ORDER:

1. Since the parties to these Transfer Civil Miscellaneous Petitions filed for transfer of OS No.225 of 2014 on the file of the learned Senior Civil Judge, Bhongir, AOP No.53 of 2019 on the file of the XXVI Additional Chief Judge, City Civil Court, Hyderabad and COP No.98 of 2019 on the file of the Judge, Principal Special Court in the cadre of District Judge for trial and disposal of Commercial Disputes at Hyderabad (for short 'Commercial Court') are one and the same and the subject matter involved is overlapping, it is felt essential to dispose of both the Tr.CMPs, through this common order.

2. Tr.CMP No.47 of 2021 is filed by one Sri Raigiri Ramulu Goud, who is respondent No.3 in AOP No.53 of 2019 under Section 24 of the Civil Procedure Code (for short 'CPC') to withdraw COP No.98 of 2019 on the file of the XXIV Additional Chief Judge, City Civil Court, Hyderabad and to transfer the same to the XXVI Additional Chief Judge, City Civil Court, Hyderabad,

to be tried along with AOP No.53 of 2019 and to accommodate the parties to the similar pending litigation to be tried by one of the same Courts to avoid conflicting issues.

3. Tr.CMP No.137 of 2021 is filed by the plaintiffs in OS No.225 of 2014 on the file of the learned Senior Civil Judge at Bhongir to withdraw the said suit pending on the file of the Senior Civil Judge at Bhongir and to transfer the same to the Court of the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad, to be tried along with AOP No.53 of 2019 and to pass such other orders, as this Court may deem fit.

4. Heard learned counsel on both sides. Perused the material placed on record.

5. The learned counsel for the petitioners seeks to submit that the parties to all these proceedings are one and the same. In fact, the litigation is continuing right from the year 1996 before one forum or the other and pursuant to the arbitration agreement, arbitration award was also passed and it is under challenge in AOP No.53 of 2019 on the file of the learned XXVI Additional Chief Judge, Hyderabad. The parties to the original suit in OS No.225 of

2014, AOP No.53 of 2019 and COP No.98 of 2019 are one and the same. It is further argued that it is causing lot of inconvenience to the parties to attend different courts during different timings. Accordingly, they have filed two Tr.CMPs to transfer all these matters to one Court, so that conflicting judgments could be avoided.

6. It is further submitted that Transfer OP No.25 of 2020 is filed and pending before the Chief Judge, City Civil Court, Hyderabad for transfer of connected AOP No.68 of 2019 to the XXVI Additional Chief Judge, City Civil Court, Hyderabad, so that all the matters can be dealt with by the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad.

7. The learned counsel for the respondents submits that these applications are not maintainable. The suit schedule property in the original suit and AOPs are quite distinct and separate. AOPs are pending on the file of XXVI Additional Chief Judge, City Civil Court, Hyderabad, whereas COP is pending on the file of the Commercial Court and that another Transfer Petition is filed, vide Tr. OP No.25 of 2020, which is pending before the Chief Judge,

City Civil Court for transfer of AOP No.68 of 2019. In fact, the petitioners are using all these arm twisting methods to make the respondents to come to their terms and accordingly prayed for dismissal of both the transfer applications.

8. Be it stated that as per the averments made in Tr.CMP No.137 of 2021, the petitioners therein who are the plaintiffs in OS No.225 of 2014 on the file of the Senior Civil Judge at Bhongir have requested to withdraw the said suit from the file of that Court and transfer the same to XXVI Additional Chief Judge, City Civil Court, where AOP No.53 of 2019 between the same parties is pending. Perused a copy of AOP No.53 of 2019 and copy of the plaint in OS No.225 of 2014, which are forming part of paper book. In the original suit only one property is covered by Survey No.360/9 admeasuring 34 guntas and Ac.1.50 guntas in Survey No.347 of Khazipet, hamlet of Bommalaramaram Mandal, Nalgonda District, which is one of the subject matter in AOP No.53 of 2019, and there are several other properties involved whereunder the award of 7th respondent/arbitrator is challenged by the respondent No.3. Similarly, it appears that the parties have also

filed Tr. OP No.25 of 2020 before the learned Chief Judge, City Civil Court for transfer of Arbitration OP No.68 of 2019 to the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad.

9. Tr.CMP No.47 of 2021 is filed by the petitioner for the withdrawal of COP No.98 of 2019 from the file of the learned XXIV Additional Chief Judge, City Civil Court, Hyderabad and to transfer the same to the XXVI Additional Chief Judge, City Civil Court, Hyderabad, where AOP No.53 of 2019 is pending.

10. In all these cases, the parties are almost identical, more particularly in AOP No.53 of 2019 and COP No.98 of 2019, the subject matter involved is also almost one and the same along with the parties. In these circumstances, it is requested by the parties to withdraw OS No.225 of 2014 from the file of Senior Civil Judge, Bhongir and to transfer the same to XXVI Additional Chief Judge, City Civil Court, Hyderabad, where AOP No.53 of 2019 is pending. Similarly, it was also requested through Tr.CMP No.47 of 2021 to withdraw COP No.98 of 2019 from the file of XXIV Additional Chief Judge, City Civil Court, Hyderabad and to

transfer the same to XXVI Additional Chief Judge, City Civil Court, Hyderabad, to be tried along with AOP No.53 of 2019.

11. Thus, it is clear from the pleadings in Tr.CMP Nos.137 and 47 of 2021, the parties have requested for withdrawal of other matters pending on the file of the Senior Civil Judge at Bhongir and XXIV Additional Chief Judge, City Civil Court, Hyderabad, to be transferred to the Court of XXVI Additional Chief Judge, City Civil Court, Hyderabad, wherein AOP No.53 of 2019 is pending.

12. Among all these above cases, COP No.98 of 2019 was pending on the file of the XXIV Additional Chief Judge, City Civil Court, Hyderabad. Initially, it was a Commercial Court, now with effect from 26.01.2020, a separate Commercial Court is established for Hyderabad District and COP No.98 of 2019 is transferred to the said Commercial Court and it is pending on the file of that court. Therefore, in my considered opinion, instead of withdrawing COP No.98 of 2019 from the designated Commercial Court, it is just and essential to withdraw the other matters from the file of XXVI Additional Chief Judge, City Civil Court and to transfer the same to the Commercial Court at Hyderabad, wherein COP No.98 of

2019 is pending, so that all these matters may be decided by one Judge, avoiding conflicting views also considering the convenience of the parties.

13. Therefore, in the facts and circumstances of the case, for the reasons stated above, both the Tr.CMP Nos.137 and 47 of 2021 are allowed. OS No.225 of 2014 pending on the file of the Senior Civil Judge at Bhongir is ordered to be withdrawn and transferred the same to the Judge, Principal Special Court in the cadre of District Judge for trial and disposal of Commercial Disputes at Hyderabad. Similarly, AOP No.53 of 2019 pending on the file of the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad is ordered to be withdrawn and transferred to the Commercial Court at Hyderabad, as indicated above, where COP No.98 of 2019 is pending for trial along with the said matter in accordance with law. The learned Senior Civil Judge at Bhongir and the learned XXVI Additional Chief Judge, City Civil Court, Hyderabad shall transmit the entire record duly indexed within one month from the date of receipt of a copy of the order. However, in the circumstances of the case, there shall be no order as to costs.

14. As a sequel, interlocutory applications, if any pending, shall stand closed.

A. VENKATESHWARA REDDY, J.

Date: 22.02.2022

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