

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE EIGHTH DAY OF APRIL  
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE A.VENKATESHWARA REDDY

TR.C.M.P.NO: 149 OF 2021

Between:

1. Smt Sakeena Bee (died Per Lrs), Smt Sakeena Bee (died Per Lrs)
2. M.A Qayyum, S/o M.A. Baseer Shaik Aged 59 years occp. Govt Employee
3. M.A. Baseer Shaik @ Basheer Miya, S/o late Shaik Madar Sahab Aged 85 years occpn. Advocate and Agriculture
4. Mohammed Shakeel Shaik, S/o. M.A Baseer Shaik, Aged 47 years, Occ. Private Employee
5. Mohammed Abdul Razak Shaik, S/o. M.A Baseer Shaik, Aged about 41 years, Occ Govt. Employee
6. Najma Begum, W/o. Mohd. Younis, Aged about 57 years, Occ House Hold
7. Mumtaz Begum, W/o. Nizamuddin-J-Choudhry, Aged major, Occ House Hold, R/o. H.No. Block.2, Ground Floor Ya-Gareeb Nawaz Manzil, Near Bethal Church, Koch Gaon, Ambemath, Maharashtra
8. Imtiyaz Begum, W/o. Khaja Hussain, aged about 52 years, Occ. Govt Servart, R/o. H.No.12-1-80, Mukram Gunj Road, Raichur Anees Begum, W/o. Late. Md. Shabbir, aged about 49 years, Occ House hold, R/o. H.No. 2 1-145, Near Telephone Exchange, Andaroon Qila, Raichur
9. Atiya Begum, W/o. Khadar Basha, Aged about 49 years, Occ Private Employee, R/o. H. No. 11/305, Sulatan Street, Yamagnur (Village) and Mandal, Kurnool (Dist).
10. Anees Begum, W/o. Late. Md. Shabbir, Aged about 49 years, Occ House hold, R/o. H.No. 2 1-145, Near Telephone Exchange, Andaroon Qila, Raichur
11. Atiya Begum, W/o. Khadar Basha, aged about 49 years, Occ Private Employee, R/o. H. No. 11/305, Sulatan Street, Yamagnur (Village) and Mandal, Kurnool (Dist).
12. Mohammadi Begum, W/o. Mohd Haj, aged about 46 years, Occ Teacher, R/o. H. No. 2-1 145, Near Telephone Exchange, Andaroon Qila, Raichur
13. Ahmadi Begum, W/o. Ajmeer Ali, aged about 40 years, Occ Govt. Employee, R/o. H. No. 1 7-12, Patha Thota, T D Gutta, Mahabubnagar Petitioner no to 12 are the LRs of petitioner No.1 and being represented by their GPA Mohd. Abdul Baseer Shaik alias Basheer Rya, S/o. late Shaik Madar Saheb R/o. H. No. 1-7 12, Patha Thota, T D Gutta, Mahabubnagar

...PETITIONERS

**AND**

1. Venkat Swamy, S/o Venkanna Aged about 44 years Occ: Agriculture  
R/o Parala Village Kollur Mandal, Kurnool District
2. Venkanna, S/o Abba Lakshmanna Aged about 67 years Occ: Agriculture  
R/o Parala Village Kollur Mandal, Kurnool District
3. M. Gangadhar, S/o M. Thimmanna Aged about 61 years Occ: legal  
practitioner R/o Housing Board Colony, Gadwal

**...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 retransfer the connected suits bearing O.S.No.16 of 2005 (new No. 88 of 2019) and O.S.No. 41 of 2005 (New No. 82 of 2019) from the court of the learned Senior Civil Judge Nagar Kurnool to the Learned Senior Civil Judge at Gadwal.

**IA NO: 1 OF 2021**

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 all further proceedings in the connected suits bearing O.S.No.16 of 2005 (new No. 88 of 2019) and O.S.No. 41 of 2005 (New No. 82 of 2019) on the file learned Senior Civil Judge Nagar Kurnool.

This Petition coming on hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri ADESH VARMA, Advocate for the Petitioner and of SMT K. KIRAN MAYEE, Advocate for the Respondent Nos. 1 & 2.

**The Court made the following: ORDER**

**THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY**

**TRANSFER C.M.P. No.149 OF 2021**

**ORDER:**

The petitioners/plaintiffs in O.S.No.88 of 2019 (O.S.No.16 of 2005 old) and O.S.No.82 of 2019 (O.S.No.41 of 2005 old) on the file of the Senior Civil Judge at Nagarkurnool have filed this Transfer C.M.P.No.198 of 2021 under Section 24 of Civil Procedure Code (for short 'CPC') for withdrawal of O.S.No.88 of 2019 (O.S.No.16 of 2005 old) and O.S.No.82 of 2019 (O.S.No.41 of 2005 old) from the file of the Court of Senior Civil Judge, Nagarkurnool and to transfer the same to the Court of the Senior Civil Judge, Gadwal.

2. The main averments of the affidavit filed by the petitioners in support of this petition are that initially O.S.Nos.16 of 2005 and 41 of 2005 are filed on the file of the Senior Civil Judge, Gadwal and as per the orders in Transfer O.P.No.2 of 2019 of the learned Principal District Judge at Mahabubnagar both the suits were transferred to the Court of Senior Civil Judge at Nagarkurnool and renumbered as OS Nos.88 of 2019 and 82 of 2019 respectively. Thereafter, again

the petitioners herein have filed Transfer O.P.No.7 of 2020 before the Principal District Judge at Mahabubnagar for retransfer of the above suits from the file of the Court of the Senior Civil Judge, Nagarkurnool to the Courts at Gadwal alleging that one of the petitioners is aged about 80 years and it is causing lot of inconvenience to the petitioners to attend the Court at Nagarkurnool. However, learned Principal District Judge at Mahabubnagar has dismissed the said Transfer C.M.P.No.7 of 2020 on 04.06.2021. Feeling aggrieved by the said orders dated 04.06.2021 in Transfer C.M.P.No.7 of 2020, the petitioners have filed this Transfer C.M.P. No.149 of 2021 under Section 24 of CPC with the prayer, as indicated above.

3. This application is resisted by the respondents/defendants and they have filed a detailed counter. Main averments of the counter are that both the above suits were clubbed and evidence was adduced, the suits are being adjourned under one pretext or the other for arguments since 12.08.2013. The petitioners have been filing frivolous petitions one after the other without any merits and

intentionally delaying disposal of the above suits. The petitioner No.3 is a practicing advocate and adopting dilly-dally tactics only to avoid the disposal of the main suits and his conduct was observed by this Court in CRP No.3244 of 2013 holding as under :

"The third plaintiff being an advocate exhibited his ingenuity and tried to prolong the suit to the extent possible by way of filing such petition, which is nothing but abuse of process."

4. The High Court has dismissed the said CRP No.3244 of 2013 as per the orders dated 26.07.2013. The petitioners have been filing applications one after the other and almost filed 20 Civil Revision Petitions and presently CRP Nos.7357 of 2017, 1348 of 2017, 242 of 2020, 262 of 2020, 418 of 2020, 897 of 2019 and 895 of 2019 are pending. The petitioners have been illegally enjoying the property for the last more than seventeen years. Initially they have filed Transfer O.P.No.10 of 2012 and the same was dismissed. Thereafter, Transfer O.P.No.2 of 2019 was filed and as per the orders in the said O.P., both the suits were withdrawn from the file of the Senior Civil Judge, Gadwal and were transferred

to the Court of the Senior Civil Judge, Nagarkurnool. Again they have filed Transfer O.P.No.7 of 2020 for retransfer of both the suits to the Court of the Senior Civil Judge at Gadwal alleging that it is causing lot of inconvenience to them.

5. It is mentioned in the counter that as per the cause title in Transfer O.P.No.2 of 2019, dated 04.05.2019 the petitioner No.3 is shown as resident of House No.1-7-12, Old Garden. T.D.Gutta, Mahabubnagar, which is at a distance of 70 K.Ms. to the Court at Gadwal. Thereafter, Transfer O.P.No.7 of 2020 was dismissed by the Principal District Judge, Mahabubnagar. As per the directions of Hon'ble Supreme Court this Court in Transfer C.M.P.no.114 of 2013, as per orders dated 14.03.2013 dismissed the same with a direction to dispose of the original suit within three months. Further, in C.R.P.No.1505 of 2012 as per the order dated 03.02.2013 the trial Court was directed to dispose of the original suit within three months. However, the petitioners were successful in delaying the disposal of the original suit for the last more than 17 years under one pretext

or the other. Finally prayed that there are no merits in the Transfer C.M.P. in view of the dismissal of Transfer C.M.P. No.7 of 2020, considering the advanced stage of the suits which are being posted for arguments for the last more than eight years.

6. Heard on both sides. Perused the record.

7. Section 24 of CPC deals with general power conferred for transfer and withdrawal of suits on the High Court and District Court. The language of Section 24 of CPC is very wide and there are no restrictions in the way of High Court exercising the said power.

8. Reverting back to the facts of the case, as narrated in the counter, initially Transfer O.P. No.10 of 2012 was filed by the petitioners which was dismissed by the learned Principal District Judge at Mahabubnagar. Thereafter, evidence on both sides was concluded. After clubbing both the suits in O.S.No.16 of 2005 and O.S.No.41 of 2005 evidence was recorded and ever since 12.08.2013 both suits are being adjourned only for advancing the arguments. In the

meanwhile, several interlocutory applications were filed, a Transfer C.M.P. was also moved before this Court vide Transfer C.M.P.No.114 of 2013 and as per the order dated 14.03.2013 this Court has dismissed the said Transfer C.M.P. with a direction to the trial Court to dispose of both the suits within three months. Even in C.R.P.No.1505 of 2012 as per orders dated 03.12.2013 this Court directed the trial Court for disposal of both original suits within three months but there was no progress.

9. Further as per the orders in Transfer O.P.No.2 of 2019 the learned Principal District Judge at Mahabubnagar has transferred both the suits to the Court of the Senior Civil Judge, Nagarkurnool. Consequently both the suits were renumbered as O.S.No.88 of 2019 and O.S.No.82 of 2019 respectively. Again Transfer O.P.No.7 of 2020 was filed before the Principal District Judge, Mahabubnagar for retransfer of both the suits alleging that the parties were not having *faith/confidence* on the then Presiding Officer of Senior Civil Judge Court at Gadwal and in view of his transfer from that place requested for transfer of both the suits. Learned

Principal District Judge, Mahabubnagar has dismissed Transfer O.P.No.7 of 2020 as per the orders dated 04.06.2020. Feeling aggrieved by the same, this Transfer C.M.P. is filed for the same relief of withdrawal of both the suits from the file of Senior Civil Judge at Nagarkurnool and to transfer the same to the Court of Senior Civil Judge at Gadwal.

10. It is not the case of the petitioners herein that one of the parties to the suit, who is a practicing advocate, has stopped practice and not attending the Court. That apart, considering the checkered history of the litigation and status of the suits since 12.08.2013 in spite of several directions there is no progress and both the suits are only being adjourned for arguments and the parties are not co-operating with the trial Court, the petitioners are filing applications one after the another and as on the date a batch of Civil Revision Petitions are pending before this Court as indicated in the counter filed by the respondents.

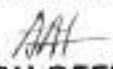
11. Therefore, since the original suits are being adjourned only for advancing arguments from 12.08.2013

onwards, the physical presence of parties is not at all necessary either before the Court of Senior Civil Judge at Nagarkurnool or at Gadwal. It is for the learned counsel on both sides to advance the arguments. Thus, I find no force or bonafidies in the contention of the petitioner at to advanced age of one of the petitioners or inconvenience of the parties at this belated stage after recording the evidence on both sides as the suits are only being adjourned for the last more than nine years only for advancing arguments. In such facts and circumstances of the case I do not find any merit in the request of the petitioner for retransfer of both the suits from the Court of Senior Civil Judge at Nagarkurnool to the Court of Senior Civil Judge at Gadwal.

12. In the result, this Transfer C.M.P. is dismissed with costs. Consequent thereto, the miscellaneous petitions, if any pending, in this Tr.C.M.P. shall stand closed.

SD/-T.SRINIVAS  
ASSISTANT REGISTRAR

//TRUE COPY//

  
SECTION OFFICER

To,

1. The Senior Civil Judge, Nagarkurnool.
2. The Senior Civil Judge, Gadwal.
3. One CC to SRI. AADESH VARMA, Advocate. [OPUC]
4. One CC to SRI. K. KIRAN MAYEE, Advocate. [OPUC]
5. Two CD Copies
6. One Spare Copy

SB

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HIGH COURT

DATED:08/04/2022



ORDER

TRCMP.No.149 of 2021

TR.CMP DISMISSED  
WITH COSTS.

⑦  
7/6/22  
HVA