

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

TRANS. CIVIL MISC.PETITION NO: 277 OF 2022

Between:

1. Kamhari @ Pulimaamidi Laxmi, W/o. Narayana, aged about 62 years, Occ Agriculture, R/o. H.No.1-4-979, L.B.S. Nagar, Bodhan Town, Nizamabad District
2. Kamhari @ Pulimaamidi Shivajyothe, D/o. Narayana, aged about 40 years, Occ Pvt. Teacher, R/o. H.No. 1-4-979, L.B.S. Nagar, Bodhan Town, Nizamabad District.

...PETITIONERS/ Defendants No. 1 & 2

AND

1. Kamhari @ Pulimaamidi Sattaiah, S/o.Narsaiah, aged about 48 years, Occ Agriculture, R/o. Nizampet Village And Mandal, Medak District.
2. Kamhari @ Pulimaamidi Saraswathi, D/o. Narsimulu, aged about 68 years, Occ Agriculture, R/o. Nizampet Village And Mandal, Medak District

...RESPONDENTS/Plaintiffs No. 1 & 2

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed there with, the High Court may be pleased to transfer the O.S. No. 185 of 2022 from the Court of Junior Civil Judge, at Medak, Medak District, to the Junior Civil Judge, at Bodhan, Nizamabad District.

IA NO: 1 OF 2022

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 O.S. No. 185 of 2022 on the file of Junior Civil Judge, at Medak, Medak District.

Counsel for the Petitioners : SRI. KIRAN REDDY MALLARAPU
Counsel for the Respondents : -----

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU
TRANSFER CIVIL MISCELLANEOUS PETITION No.277
OF 2022

ORDER :

This is a petition filed by the petitioner Nos.1 and 2 who are defendants in O.S.No.185 of 2022 under Section 24 C.P.C., with a prayer to transfer O.S.No.185 of 2022 from the file of Junior Civil Judge, Medak to the file of Junior Civil Judge, Bodhan. In the affidavit filed in support of the petition, the 1st petitioner/defendant No.1 has submitted that respondents/plaintiffs have filed O.S.No.185 of 2022 on the file of Junior Civil Judge, Medak seeking partition of Plaint "A" & "B" schedule properties and for allotment of ¼ share each to the respondent Nos.1 and 2. Plaint "A" schedule property is a house, situated at Nizampet Mandal of Medak District, whereas plaint "B" schedule property is situated at Bodhan. Both the suit schedule properties are ancestral properties of the parties to the present petition. Out of the two properties, major portion of the property is situated at Bodhan. "A" schedule property i.e., house stood in the name of the deceased

husband of 1st petitioner whereas "B" schedule property stood in the name of 1st petitioner. The 1st petitioner has claimed that the suit for partition of "B" schedule property is not maintainable and the suit is not maintainable before the Junior Civil Judge, Medak. The respondents/plaintiffs ought to have filed suit at Bodhan since major portion of the property is within the territorial jurisdiction of Bodhan. The 1st petitioner is aged about 62 years and suffering from aged related ailments. She is unable to travel all the way from Bodhan to Medak. She has no male assistance to pursue the suit at Medak. She has to travel 106 + 106 K.M for each hearing. She cannot afford to travel, thereby sought for transfer of the suit from Medak to Bodhan.

2. Proof of service filed. Respondents/plaintiffs did not choose to appear before the Court.

3. Heard counsel for the petitioner.

4. Now the point for consideration is:

Whether the request of the petitioner for transfer of O.S.No. 185 of 2022 from the file of Junior Civil Judge, Medak to the Court of Junior Civil Judge, Bodhan can be considered ?

5. **POINT**

As could be seen from the copy of plaint in O.S.No.185 of 2022, it shows that the respondents/plaintiffs have filed the above referred suit for partition of two properties situated at different locations. They chose to file the suit before Junior Civil Judge, Medak on the ground that they are entitle to file suit either at Bodhan or at Medak and by virtue of Section 17 C.P.C., they have selected Medak to sue the petitioner herein.

6. Even as per the plaint averments in O.S.No.185 of 2022 one of the suit schedule property which is considered to be major one is situated within territorial jurisdiction of the Junior Civil Judge, Bodhan. The petitioner No.1 herein is senior citizen. The petitioners herein claimed that they have no financial resources to go to Medak for prosecuting suit. The respondents/plaintiffs did not choose to contest the petition, in spite of service of notices in this petition. The 1st petitioner who filed affidavit in support of the transfer petitioner has submitted that she being a lady cannot travel such a long distance of 200 K.M. for each hearing. Since the respondents/plaintiffs did not choose to

attend the Court, it is not known whether it is convenient for them to attend the Court at Bodhan. However, since major part of the property is at Bodhan jurisdiction and in the light of representation of the petitioners on the ground of financial difficulty, their request can be considered for transfer of O.S.No.185 of 2022 from the file of Junior Civil Judge, Medak to the Court of Junior Civil Judge, Bodhan.

7. **In the result**, the petition is allowed. As a consequence thereof, O.S.No.185 of 2022 on the file of Junior Civil Judge, Medak is withdrawn and transferred to the file of Junior Civil Judge, Bodhan.

8. The concerned Court is hereby directed to transmit the entire case file, after duly indexed, within (4) four weeks from the date of receipt of this Order, under the intimation to the other side.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

//TRUE COPY//

Sd/-V.KAVITHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Junior Civil Judge, Medak.
2. The Junior Civil Judge, Bodhan.
3. Two CC to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to SRI. KIRAN REDDY MALLARAPU Advocate [OPUC]
5. Two CD Copies

BJLB

HIGH COURT

SSRN,J

DATED:19/01/2023

ORDER

TRCMP.No.277 of 2022



Allowing the Petition

[Handwritten signature]
02/02/2023