
(2003) 07 AP CK 0029

In the Andhra Pradesh High Court

Case No : TCMP No's. 392 and 393 of 2002

Gulam Ismail and Another

APPELLANT

Vs

Mirza Ibrahim Ali Baig

RESPONDENT

Date of Decision : 14-07-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (2003) 5 ALD 552

Hon'ble Judges : P.S. Narayana, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : C. Hanumantha Rao, for the Appellant; S. Niranjan Reddy, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Narayana, J.—The relief prayed for in these transfer CMPs is to transfer OS Nos. 490 of 1991 and 61 of 1990 on the file of V Additional Judge, City Civil Court, Hyderabad, to be tried along with OP Nos. 342 and 367 of 1992 pending on the file of the Chief Judge-cum-Special Tribunal under the A.P. Land Grabbing (Prohibition) Act, City Court, Hydreabad in view of Section 7A(3) of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (hereinafter in short referred to as "the Act"). The historical background of the cases and several factual details have been narrated in the affidavits filed in support of the transfer CMPs, which may not be necessary to be discussed in detail for the purpose of disposal of these transfer CMPs.

2. In fact, in similar matter, one of us (P.S. Narayana, J) had already taken the view in Tr.CMP No. 388 of 2002 that the relief of this nature cannot be granted u/s 24 of the CPC (hereinafter in short referred to as "the Code") since the Special Court or the Tribunal, as the case may be, constituted under the provisions of the Act will not fall u/s 24 of the Code. Since the Counsel representing the respective parties had addressed elaborate arguments and in view of the general importance involved in the matter, the following question was referred to the

Division Bench by one of us (P.S. Narayana, J) which is as under:

"Whether the transfer CMPs filed by the petitioners to transfer the original suits on the file of the V Additional Judge, City Civil Court, Hyderabad to be tried along with Land Grabbing O.Ps., pending on the file of the Chief Judge-cum-Land Grabbing Tribunal, City Civil Court, Hyderabad, are maintainable u/s 24 of the Code, in view of the language of Section 24 of the Code and the provisions of the A.P, Land Grabbing (Prohibition) Act and in the light of the decision of the Division Bench of this Court referred to above?"

3. Reliance was placed on a Division Bench of decision of this Court in *New Jaji Labour Society Vs. Haji Abdul Rahaman Saheb and Others*, , and also on a decision of the Supreme Court in *R. Sudhakar Reddy Vs. Govt. of A.P., Irrigation and CAD (PW) Department and Others*, . These decisions are definitely distinguishable on facts. The said decisions do not deal with the interpretation of Section 24 of the Code and hence they are not applicable to the present facts.

4. A reading of Section 24 of the Code itself makes it clear that the said provision can be invoked to transfer any suit or appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same.

5. In the light of the clear language employed in the aforesaid provision, we have no hesitation in holding that for transfer of suits to be tried along with the O.Ps., pending on the file of the Special Court or the Tribunal constituted under the provisions of the Act, Section 24 of the Code cannot be invoked. The remedy provided for u/s 24 of the Code is not available.

6. Hence the transfer CMPs are devoid of merits. They are accordingly dismissed. No order as to costs.

7. Consequently, the interim stay earlier granted by this Court shall stand vacated.