

(2025) 04 AP CK 0343

In the Andhra Pradesh High Court, Amaravati

Case No : Transfer Civil Miscellaneous Petition No: 6 Of 2024

Manepalli Mohan Rao

APPELLANT

Vs

Jakkam Sunitha And Others

RESPONDENT

Date of Decision : 09-04-2025

Acts Referred:

Code Of Civil Procedure, 1908 — Section 24, 24(1)(b), 39(4), 42(2)(a)

Citation : (2025) 04 AP CK 0343

Hon'ble Judges : Venuthurumalli Gopala Krishna Rao, J

Bench : Single Bench

Advocate : P Rajesh Babu, Dasari S V V S V Prasad, O Udaya Kumar

Final Decision : Dismissed

Judgement

V. Gopala Krishna Rao, J

1. The petitioner filed the present petition under Section 24 of the Civil Procedure Code, seeking to withdraw the suit in O.S.No.13 of 2014 on the file of the Court of X Additional District Judge, Narsapur, West Godavari District and transfer the same to the Court of III Additional District Judge, Kakinada, East Godavari District.

2. The case of the petitioner, in brief, is as follows:

(i) The petitioner filed a suit for specific performance of agreement of sale in O.S.No.13 of 2014, on the file of X Additional District Judge, Narsapur, West Godavari District, against the respondent Nos.1 and 2 and 3rd respondent was subsequently added as 3rd defendant and the suit is being contested by the respondents and the same is pending for trial. In the suit, he was examined as P.W.1 and suit agreement of sale was marked as Ex.A.2. The petitioner further pleaded that the learned trial Judge while rejecting the contention of the respondents to receive and mark the suit agreement of sale, during the further course of chief examination, directed to him to pay stamp duty and penalty over the suit agreement of sale. He was advised that he has to challenge the said

observation passed by the learned trial Judge with regard to receiving and marking of Ex.A.1 to Ex.A.15 documents filed by him. Thereafter, on 26.06.2023, the cross examination was done by the counsel for the respondent Nos.1 and 2 in part and his further cross examination was deferred at their request. The petitioner further pleaded respondent Nos.1 and 2 preferred a Civil Revision Petition No.1779 of 2023 against the order, dated 12.12.2022 as if the suit agreement of sale was still to be marked as exhibit.

(ii) The petitioner pleaded that while so the respondent Nos.1 and 2 in collusion with their friends and partners viz., Maram Dattu and Maram Krishna Prasad, who in order to defeat his rights over the suit agreement of sale, filed two money suits i.e., O.S.No.3 of 2014 and O.S.No.4 of 2014 and the same were allowed by the same Court to pass two independent decrees. During the pendency of the aforesaid suits, he filed implead petition and the said Court dismissed the implead petition holding that he is not a proper and necessary party to the aforesaid suit proceedings. The petitioner further pleaded after obtaining decrees in O.S.No.3 of 2014 and O.S.No.4 of 2014, the respondent Nos.1 and 2 herein filed execution proceedings before the said Court and filed an Execution Application in the said execution proceedings before the said Court.

(iii) The petitioner pleaded that he filed two applications in E.A.No.196 of 2023 and E.A.No.217 of 2023 to receive the certified copies of orders of dismissal passed by the same Court in the implead petition filed by the above said person in I.A.No.780 of 2019 and I.A.No.779 of 2019 which were opposed, wherein the learned trial Judge by way of separate orders, dated 09.10.2023, dismissed both the applications in E.A.No.196 of 2023 and E.A.No.217 of 2023 on the ground that the certified copies of the orders in I.A.No.780 of 2019 and I.A.No.779 of 2019 were challenged by the said persons before this Court in C.R.P.No.2275 of 2022 and C.R.P.No.2276 of 2022 and the order, dated 06.09.2022 passed by the learned trial Judge dismissing the implead petitions having not become final due to the pendency of C.R.P.No.2275 of 2022 and C.R.P.No.2276 of 2022 and moreover, this Court as if granted stay of his suit in O.S.No.13 of 2014, dismissed his two applications to receive the documents.

(iv) The petitioner pleaded that he completely came to understand that there was a miscarriage of justice to him since the learned Judge without even properly verifying the record, dismissed his application on the sole ground of granting stay as if granted by this Court and completely came to understand that the learned trial Judge in a biased manner completely went against him and therefore passed such orders and that he was compelled to make a complaint against the said Judge to the Registrar General of this High Court. The petitioner further pleaded thereupon his complaint was considered by this Court and he was advised to avail legal remedy available to him on a judicial side in accordance with law. The petitioner further pleaded that as he was advised to seek legal remedy on judicial side, he thought it fit not to proceed with his case before the learned Judge of X Additional District Judge, Narsapur, West Godavari

District and the petitioner herein is constrained to file this application.

3. The 3rd respondent filed counter-affidavit. The brief averments are as follows:

The petitioner is a chronic litigant and filed cases before various courts taking advantage of the forged and fabricated signatures/documents with a malafide intention to gain unlawfully. He further contended that as per Section 24(1)(b) and Section 39(4) and Section 42(2)(a) of Civil Procedure Code, execution of decree cannot pervade beyond local limits of the jurisdiction of District Court taking note of Court which passed original decree. He further contended that the petitioner misusing and abusing provisions of the Civil Procedure Code and got filed the present transfer petitions in Tr.C.M.P.Nos.6, 7, 28, 29, 262 and 269 of 2024 by seeking transfer beyond their jurisdiction including execution petitions, which are not maintainable under law. The 3rd respondent further contended that the respondents in the above transfer petitions are residents of Narasapuram and its surroundings. Even though the petitioner mentioned his address at Hyderabad/Secunderabad, he is the permanent resident of Rajahmundry, East Godavari District. The general rule of jurisdiction vested to the Court where the property is situated or where the defendant is residing or where cause of action arises i.e., territorial jurisdiction and pecuniary jurisdiction depending on the subject matter of the suits. But, in the present cases no single rule is fell into the jurisdiction of the East Godavari District. The petitioner with a malafide intention filed the above transfer petitions to harass the respondents in the transfer petitions, suits, appeals and execution petitions to drag into different courts/forums.

4. Heard Sri P. Rajesh Babu, learned counsel for the petitioner and heard Sri Dasari S.V.V.S.V. Prasad, learned counsel for the respondents.

5. The grounds urged for seeking transfer of the suit in O.S.No.13 of 2014 on the file of the Court of X Additional District Judge, Narsapur, West Godavari District, to the Court of III Additional District Judge, Kakinada, East Godavari District, is that he filed two applications vide E.A.Nos.196 and 217 of 2023 before the Executing Court to receive the certified copies of orders of dismissal passed by the same Court in the implead petitions filed by the aggrieved person in I.A.Nos.780 and 779 of 2019, which were opposed, but the learned Judge dismissed his applications on the ground that the certified copies of orders in I.A.Nos.780 and 779 of 2019 were challenged by the said persons before this Court in Civil Revision Petition Nos.2275 and 2276 of 2022 and the orders, dated 06.09.2022 passed by the learned trial Judge dismissing the implead petitions having not become final due to the pendency of the Civil Revision Petition Nos.2275 and 2276 of 2022.

6. The petitioner would contend that he completely came to understand that the learned trial Judge is in a biased manner completely went against him and, therefore, passed such order and as such, he was compelled to make complaint against the learned trial Judge to the Registrar General of this High Court and

thereupon he was advised to seek legal remedies on the judicial side instead of administrative side and that he filed the present petitions.

7. The law is well settled that mere apprehension of not getting a fair and impartial enquiry or trial is required to be reasonable and not imaginary, based upon conjectures and surmises.

8. Learned counsel for the petitioner placed a reliance of *Gurcharan Dass Chadha vs. State of Rajasthan* AIR 1966 Supreme Court 1418 , wherein the Apex Court held as follows:

"A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to demonstrate that justice will inevitably fail. He is entitled to a transfer if he shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there is apprehension that justice will not be done in a given case does not suffice. The Court has further to see whether the apprehension is reasonable or not."

In the case on hand, the petitioner made an allegation that the learned trial Judge i.e., X Additional District Judge, Narsapur is in a biased manner and that the applications filed by him in E.A.Nos.196 and 217 of 2023 were dismissed and that he is having apprehension that the Judge is biased and that his applications were dismissed. In the aforesaid case law, the Apex Court held that a mere apprehension that justice will not be done in a given case does not suffice to transfer the case from one Court to another Court. Moreover, The Apex Court in the case of *Captain Amrinder Singh vs. Prakash Singh Badal and 5 others* 2009 (6) SCC 260, held as follows:

"Mere allegations that there is apprehension that justice will not be done in a given case does not suffice. In other words, the Court has further to see whether the apprehension alleged is reasonable or not. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension."

9. The suit in O.S.No.13 of 2014 is filed by the petitioner herein before the X Additional District Judge, Narsapur, West Godavari District in the year 2014, the said suit proceedings are pending since 11 years before the X Additional District Judge, Narsapur, West Godavari District and the trial has been commenced. The suit schedule property is situated within the limits of Narsapur mandal. As noticed supra, the trial has been commenced in the said court of X Additional District Judge, Narsapur, West Godavari District. Other claim applications filed by the petitioner is also pending in execution proceedings in the X Additional District Judge, Narsapur. The law is well settled that "the necessity or occasion to transfer a suit from one Court to another Court would arise, if only, there exists in similarity of cause of action or commonality of the parties". Such situation does not arise in the present case on hand. Moreover, the Judicial Officer against

whom the petitioner has been leveled allegations has been transferred to some other place in general transfers on 07.04.2025. Therefore, I do not find any merits in the present Transfer Miscellaneous Petition.

10. For the aforesaid reasons, I am of the considered view that there are no grounds to allow the present application.

11. In the result, the present Transfer Civil Miscellaneous Petition is dismissed.