

(2025) 04 AP CK 0344

In the Andhra Pradesh High Court, Amaravati

Case No : Transfer Civil Miscellaneous Petition No: 7 Of 2024

Manepalli Mohan Rao

APPELLANT

Vs

M/s Shriram City Union Finance Ltd And Others

RESPONDENT

Date of Decision : 09-04-2025

Acts Referred:

Code Of Civil Procedure, 1908 — Section 24, 24(1)(b), 38, 39, 39(4), 42(2)(a)
Code Of Civil Procedure, 1908 — Order 21 Rule 3, Order 21 Rule 48

Citation : (2025) 04 AP CK 0344

Hon'ble Judges : Venuthurumalli Gopala Krishna Rao, J

Bench : Single Bench

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

Final Decision : Dismissed

Judgement

Venuthurumalli Gopala Krishna Rao, J

Transfer Civil Miscellaneous Petition No.7 of 2024:

1. The petitioner filed this petition under Section 24 of the Civil Procedure Code, seeking to withdraw the Arbitration E.P.No.481 of 2020 in Arbitration Case No.103 of 2015 on the file of the Court of X Additional District Judge, Narsapur, West Godavari District along with claim petition filed by the petitioner in E.A.No.214 of 2020 and transfer the same to the Court of III Additional District Judge, Kakinada, East Godavari District.

Transfer Civil Miscellaneous Petition No.28 of 2024:

The petitioner filed this petition under Section 24 of the Civil Procedure Code, seeking to withdraw E.P.No.7 of 2019 in O.S.No.4 of 2014 on the file of the Court of X Additional District Judge, Narsapur, West Godavari District along with E.A.No.318 of 2019 and transfer the same to the Court of III Additional District Judge, Kakinada, East Godavari District.

Transfer Civil Miscellaneous Petition No.29 of 2024:

The petitioner filed this petition under Section 24 of the Civil Procedure Code, seeking to withdraw E.P.No.3 of 2019 in O.S.No.3 of 2014 on the file of the Court of X Additional District Judge, Narsapur, West Godavari District along with E.A.No.200 of 2019 and transfer the same to the Court of III Additional District Judge, Kakinada, East Godavari District.

2. The case of the petitioner in all the Transfer Civil Miscellaneous Petitions, in brief, are 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 herein 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 further 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 by the said persons, 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 order 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 that the petitioner herein is constrained to file this application.

3. The 2nd 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, 29, 262 and 269 of 2024 by seeking transfer beyond their jurisdiction including execution petitions, which are not maintainable under law. The 2nd 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 petitioner herein is instituted E.A.No.214 of 2020 in Arbitration E.P.No.481 of 2020 in Arbitration Case No.103 of 2015; the petitioner instituted another E.A.No.318 of 2019 in E.P.No.7 of 2019 in O.S.No.4 of 2024 and the petitioner also instituted another E.A.No.200 of 2019 in E.P.No.3 of 2019 in O.S.No.3 of 2014. All the applications are pending before the Court of X Additional District Judge, Narsapur, West Godavari District. The petitioner sought transfer of the aforesaid applications and filed Transfer Civil Miscellaneous Petition Nos.7, 28 and 29 of 2024 before this Court for seeking transfer of the aforesaid execution proceedings filed by the respondent/decreed holder from the Court of X Additional District Judge, Narsapur, West Godavari District. Admittedly, the execution petition schedule property is situated within the territorial jurisdiction of Narsapur Court limits. Moreover, the execution applications are filed by the petitioner by approaching the Court at Narsapur in all the execution petitions.

6. The grounds urged for seeking transfer of the Execution Applications in Arbitration E.P.No.481 of 2020 in Arbitration Case No.103 of 2015; E.P.No.7 of 2019 in O.S.No.4 of 2014 and E.P.No.3 of 2019 in O.S.No.3 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 application filed by the aggrieved person in I.A.Nos.780 and 779 of 2019, which were opposed by the said persons, 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 that 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.

7. 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, 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 applications.

8. There cannot be any dispute over the proposition that the Court which passed the decree is entitled to execute the decree. Section 39 of the Code of Civil Procedure does not authorized the Court to execute the decree outside its jurisdiction, but it does not dilute the other provisions giving such power on complaint with the conditions stipulated in those provisions. Thus, the provisions such as Order XXI Rule 3 or Order XXI Rule 48 which provide differently would not be effected by Section 39(4) of the Code of Civil Procedure. There cannot be any dispute over the proposition that the Court which passed the decree is entitled to execute the decree. It is clear the same is clear Section 38 of the

Code of Civil Procedure which provides that a decree may be executed either by the Court which passed it or by the Court to which it is sent for execution.

9. 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.

10. 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 execution petition proceedings are instituted by the respondents before the executing court. The petitioner herein filed claim petitions in the aforesaid in the aforesaid Transfer Civil Miscellaneous Applications and the decree passed by the trial Court is not yet sent for execution under Section 38 of the Code of Civil Procedure. 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. 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."

11. The execution proceedings schedule property is situated within the limits of Narsapur Mandal. As noticed supra, the claim applications filed by the petitioner are also pending in execution proceedings in the same Court. The law is well settled that 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, it is observed that 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 Petitions.

12. For the aforesaid reasons, I am of the considered view that there are no

grounds to allow the present Transfer Miscellaneous Petitions.

13. In the result, all the Transfer Civil Miscellaneous Petitions are dismissed.