
(1999) 10 AP CK 0069
In the Andhra Pradesh High Court
Case No : Tr. CMP No. 178 of 1999

Vijaya Bagrodia and others	Vs	APPELLANT
Global Steels Ltd. and others		RESPONDENT

Date of Decision : 12-10-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 10, 24

Citation : (1999) 6 ALD 514 : (1999) 6 ALT 193

Hon'ble Judges : C.V.N. Sastri, J

Bench : Single Bench

Advocate : Mr. Vilas V. Afzulpurkar, for the Appellant; Mr. V. Venkataramana, for the Respondent

Judgement

1. This is a petition filed u/s 24, CPC seeking transfer of suit OS No.22 of 1999 on the file of the Senior Civil Judge, Gudivada to the Court of III Senior Civil Judge, Secunderabad to be heard along with OS No. 176 of 1998 pending on the file of the latter Court. The petitioners herein claim to be the Managing Director and Directors of M/s. Global Steels Limited, a company having its Registered Office at Hyderabad. One Wahaz Mirza, who was a former director of the said company filed OS No.176 of 1998 in the Court of the III Additional Senior Civil Judge, City Civil Court at Secunderabad questioning the management of the company by the petitioners herein and their right to act as Managing Director and Directors of the company and to declare the several actions taken by them in the management of the company and the various resolutions passed at various meetings as illegal and non-est for a permanent injunction restraining the petitioners and their associates and representatives from interfering with the day-to-day affairs of the company and for other incidental reliefs.

2. One Mr. Ashok Gadodia who in his turn claims to be the Managing Director of the company and who figures as the 2nd defendant in OS 176 of 1998, has subsequently filed OS No.22 of 1999 on the file of the Senior Civil Judge, Gudivada with substantially same allegations disputing the right of the

petitioners herein to be in management of the company and claiming more or less similar reliefs as are claimed in the earlier suit. The said suit was filed in the Court at Gudivada basing on the fact that the factory of the company is located in Gudivada though the Registered office of the company is at Hyderabad.

3. By this transfer petition, the petitioners seek the transfer of OS No.22 of 1999 also to the Court of the III Senior Civil Judge, City Civil Court, Secunderabad for being tried along with OS No. 176 of 1998 as the subject-matter of both the suits is one and the same and the reliefs claimed in the two suits are also identical.

4. The first respondent is opposing the transfer petition by contending that the nature of the reliefs claimed in the two suits are different, the cause of action is also different and both parties have already filed several interlocutory applications in the two suits claiming various reliefs and that the petitioners have infact filed an application in OS 22 of 1999 u/s 10 of CPC seeking stay of the said suit till the disposal of OS 176 of 1998 and as such, they are not entitled to seek transfer of the said suit to be tried along with OS 176 of 1998. It is further contended that there is no guarantee that OS 176 of 1998 will be diligently prosecuted by the plaintiff in the said suit and if for any reason, the said suit is not continued, the transfer of OS 22 of 1999 as sought for will be a futile exercise. It is also urged that mere convenience of the petitioners or their witnesses is not a valid ground for the transfer of the suit OS 22 of 1999 which is properly instituted in a Court of competent jurisdiction.

5. It is not in dispute that the registered office of the company is at Hyderabad and all the parties including the first respondent viz., Mr. Ashok Gadodia are residents of Hyderabad. It is also not in dispute that the first respondent who figures as the 2nd defendant in OS 176 of 1998 is sailing with the plaintiff in the said suit. The subject-matter of both the suit indisputably is one and the same and the common question which arises for decision in both the suits is the right of the petitioners herein to be in management of the company.

6. Under these circumstances, I am of the view that it is pre-eminently a fit case for transferring the subsequent suit i.e., OS 22 of 1999 also to the Court at Secunderabad so as to avoid multiplicity of proceedings and conflicting judgments. Such a transfer, in my view, is also mutually convenient for all the parties concerned. It is well established that suits of this nature should ordinarily be filed in the Court in whose jurisdiction the registered office of the company is located. (See: Pandian Graphites India Ltd. v. Lowuri Lakshmi, 1996 (1) ALD 680). The mere fact that the petitioners have filed an application u/s 10 CPC seeking stay of OS No.22 of 1999 till the disposal of OS No. 176 of 1998 does not, in my view, militate against their right to seek transfer of the said suit. The basis of the application u/s 10 also is the fact that the questions substantially in issue in both the suits are one and the same.

7. For all the foregoing reasons, the Transfer CMP is ordered as prayed for. No costs.