

N. Chandrakala Vs. R. Jyothi

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Court : Andhra Pradesh

Decided On : Oct-07-2002

Reported in : 2003(2)ALD206

Judge : Gopala Krishna Tamada, J.

Acts : Andhra Pradesh (TA) Small Causes Courts Act, 1330F - Sections 8; Andhra Pradesh Civil Courts Act, 1972 - Sections 3; Code of Civil Procedure (CPC) - Sections 24(4)

Appeal No. : Tr. CMP No. 102 of 2002

Appellant : N. Chandrakala

Respondent : R. Jyothi

Advocate for Def. : A. Sanjeeva Reddy, Adv.

Advocate for Pet/Ap. : P.V. Sanjeeva Rao, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Gopala Krishna Tamada, J.

1. A short but interesting point that arises for consideration in this transfer petition is whether a matter pending before the Court of Small Causes can be transferred to a regular Civil Court for disposal or not.

2. The factual background that led to the filing of this transfer petition is as follows:- The respondent herein filed three suits i.e., S.C. No. 684 of 2001 on the file of the Court of Additional Chief Judge, City Small Causes Court, Hyderabad, O.S. Nos. 6253 and 6254 of 2001 on the file of the II Junior Civil Judge, City Civil Court, Hyderabad, against the petitioner herein, for recovery of certain amounts on the basis of promissory notes alleged to have been executed by the petitioner herein. Even though all the three suits are filed against one and the same defendant, because of the variation in the suit amounts, one suit (i.e., S.C. No. 684 of 2001) had to be instituted in City Small Causes Court and the other two suits (O.S. Nos. 6253 and 6254 of 2001) had to be instituted in the Junior Civil Judge's Court.

3. Now the petitioner, who is the defendant in the suits, filed the present transfer petition under Section 24 C.P.C., seeking transfer of Small Cause Case No. 684 of 2001 on the file of the Additional Chief Judge, City Small Causes Court, Hyderabad, to the Court of the II Junior Civil Judge, City Civil Court, Hyderabad, to be tried along with O.S. No. 6253 and 6254 of 2001 pending on its file on the ground of convenience.

4. Learned Counsel for the petitioner Mr. P.V. Sanjeeva Rao reiterated the contentions raised in this transfer petition and further contended that as the point involved in all the three suits is one and the same, the suit pending on the file of the City Small Causes Court i.e., S.C. No. 684 of 2001 may be withdrawn and transferred to the Court of II Junior Civil Judge, City Civil Court, Hyderabad, so that common evidence can be adduced in all the three suits and all the three suits can be disposed of by a common judgment.

5. On the contrary, the learned Counsel for the respondent Mr. A. Sanjeeva Reddy strongly opposed the said submission stating that the suit in S.C. No. 684 of 2001 is pending before a designated Court presided over by an officer of the rank of a District Judge and that the said suit cannot be withdrawn from that Court and

transferred to a Court which is presided over by a Junior Civil Judge, an officer ranked subordinate to a District Judge. Learned Counsel further contended that the City Small Causes Court is a Court constituted under the provisions of a special enactment called - Andhra Pradesh (Telangana Area) Small Causes Court Act, 1330 F. (for short, 'the Act') whereas the Court of Junior Civil Judge was constituted under Section 3 of the A.P. Civil Court Act, 1972 and the pecuniary jurisdiction of the City Small Causes Court and that of the Junior Civil Judges' Court is entirely different. Therefore, he submits that the suit pending on the file of a City Small Causes Court cannot be transferred to the Court of a Junior Civil Judge.

6. No doubt, the City Small Causes Court, Hyderabad, where the suit in S.C. No. 684 of 2001 is pending, has been constituted under the provisions of the special enactment called, the A.P. (Telangana Area) Small Causes Court Act, 1330F. According to Section 3 of the Act, a 'Court of Small Causes' is a Court constituted under the said Act. Section 4 of the Act deals with Establishment and Composition of Court of Small Causes. According to Sub-section (2) of Section 4, the Government may appoint a Judge for the Court of Small Causes and if necessary, appoint Senior Civil Judge or Judges. Section 8 is relevant for the present purpose. It reads thus:

'8. Suits Cognizable by Court of Small Causes shall not be tried by other Courts:-- Save as expressly provided by this Act or by any other law for the time being in force, suits cognizable by a Court of Small Causes shall not in places where a Court of Small Causes has been established, be tried by any other Court.'

7. The above provision contemplates that a suit cognizable by a Small Causes Court shall not be instituted in any other Court in places where a Small Causes Court is established. However, in view of the non-obstante clause provided in the above provision - save as expressly provided by this Act or by any other law for the time being in force - and in view of Sub-section (4) of Section 24 C.P.C., the High Court can transfer such of those suits which are instituted in a Court of Small Causes to the Civil Courts and for the purposes of such suit, the transferee civil Court shall be deemed to be a Court of Small Causes. It is relevant to extract Sub-

section (4) of Section 24 of the C.P.C. hereunder:

'(4) The Court trying any suit transferred or withdrawn under this Section from a Court of Small Causes shall, for the purpose of such suit, be deemed to be a Court of Small Causes. '

8. In this connection, it is pertinent to refer to a judgment of Full Bench of the Madras High Court which is reported in Karur J.H. Pictures v. Shahul Hameed, 1955 Madras 625, wherein similar question came up for consideration. The relevant paragraph is extracted hereunder :

'When a small cause suit is transferred to a Court which does not have a jurisdiction to try it as a small cause suit, even if the trial is proceeded with along with an original suit, still the Court which tries it shall be deemed to be a Court of small causes for the purpose of the transferred suit alone.'

9. In view of this above, I am of the opinion that the matters pending in a Court of Small Causes can be withdrawn and transferred to a Civil Court for trial and disposal in accordance with law. Therefore, I have no hesitation to hold that the suit pending on the file of City Small Causes Court, Hyderabad, can be withdrawn and transferred by this Court, in exercise of its jurisdiction under Sub-section (4) of Section 24 of the CPC, to the Court of the II Junior Civil Judge, City Civil Courts, Hyderabad.

10. In the result, the transfer CMP is allowed and the suit in SC No. 684 of 2001 pending on the file of the City Small Causes Court, Hyderabad, is withdrawn and transferred to the Court of II Junior Civil Judge, Hyderabad, to be clubbed and tried along with OS Nos. 6253 and 6254 of 2001. No costs.

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