

MHTH010079242019



Civil Misc. Application No.408/2019

Shri Rahul Rajeev Gandhi.

.... Applicant.

Vs.

1) Shri Vivek Shashikant Champanerkar and one. Opponents.

: ORDER BELOW EXH.1 :

1] Applicant has taken out this application to transfer R.C.S.No.264/2019 pending on the file of Ld. 3Rd Jt. Civil Judge, S.D., Thane to any Civil Judge, J.D., Thane.

2] Heard Ld. Advocate for applicant. None present for opponents when called out repeatedly till 3.30 p.m. Perused application, say filed by opponent No.1 and record. On 22/09/2021 Advocate Shri Samant filed appearance pursis on behalf of opponent No.2 and undertake to file Vakalatnama on next date but till this date he has failed to file Vakalatnama or say on the application. Hence application to proceed without say of the opponent No.2.

3] It appears that applicant is original defendant No.1 in the suit and filed this application to transfer the suit from Civil Judge, S.D. Court to Civil Judge, J.D. Court on the ground that valuation of the suit is less than Rs.5 lakhs. Hence Civil Judge, J.D. Court has jurisdiction to try and entertain the suit and therefore he has prayed for transferring the said suit to Civil Judge, J.D. Court.

The Opponent No.1 resisted the said application on the ground that “ *It is upto the administration of Court and matter of assignment as to the trial of cases either before C.J.S.D. or C.J.J.D.*” Hence he has prayed for rejection of the application.

4] At the out set it is evident that applicant i.e. original defendant No.1 in the suit filed this application praying to transfer the suit to C.J.J.D. Court on the ground of valuation. If applicant is having any grievance/objection about the maintainability of the suit before the Ld. C.J.S.D. on the ground of pecuniary jurisdiction of the Court, then he may raise the objection before the same Court and the Competent Court can decide the same on its merits. Section 24 of the C.P.C. does not prescribe for determining the question of pecuniary jurisdiction of the Court. Therefore, it would not be proper to exercise the power under section 24 of the C.P.C. to determine the question of pecuniary jurisdiction of the Court on the application of the defendant No.1 in the suit. Hence, I do not find any substance in the contention of the applicant to transfer the matter from Civil Judge, S.D. Court to Civil Judge, J.D. Court on the ground of pecuniary jurisdiction. Hence I pass the following order :-

ORDER

Application is rejected.

Date :-06/12/2021
Thane.

(A.J.Mantri)
Principal District Judge, Thane.