

**IN THE COURT OF THE DISTRICT JUDGE, KHURDA
AT BHUBANESWAR.**

Tr. P (C) No.06 of 2014.

Mandakine Behera, aged about 57 years, W/o. Sri Rajkishore Behera, Plot No.321, 3rd Floor, District Centre, Chandrasekharpur, P.S. – Chandrasekharpur, Bhubaneswar, Dist. – Khurda.

... **Petitioner.**

-V e r s u s-

Soumya Ranjan Dalai, aged about 26 years, S/o. Bairagi Charan Dalai, resident of VIM - 112, Saileshree Vihar, P.S. – Chandrasekharpur, Bhubaneswar, Dist. – Khurda, at present - Proprietor of Beehive Studios, Plot No.321, 2nd Floor, District Centre, Chandrasekharpur, P.S. – Chandrasekharpur, Bhubaneswar, Dist. – Khurda.

... **Opp. Party.**

Counsel :

For Petitioner -- Mr. M. Basu & Associates.

For Opp. Party -- Mr. Md. A. Alam & Associates.

Date of arguments : 15.01.2015.

Date of order : 06.02.2015.

No.17, Dated 06.02.2015.

O R D E R

This is an application under section 24 of the Code of Civil Procedure for transfer of C.S. No.506 of 2012 pending in the Court of Civil Judge (Jr. Division), Bhubaneswar to the Court of Civil Judge (Sr. Division), Bhubaneswar for

analogous hearing with C.S. No.1718 of 2012 subjudice in the latter Court. Petitioner and opposite party herein are plaintiff and defendant respectively in C.S.1718 of 2012, whereas opposite party is the plaintiff and petitioner is the defendant in C.S. No.506 of 2012.

2. Learned counsel appearing for the petitioner submitted that the opposite party is a tenant under the petitioner in respect of the suit premises. Since the opposite party defaulted in the terms and conditions of the Agreement by not paying house rent and electricity charges, the petitioner asked him to vacate the rented house; but the opposite party filed C.S. No.506 of 2012 in the Court of Civil Judge (Jr. Division), Bhubaneswar praying for a decree of permanent injunction against the present petitioner. The opposite party also filed I.A. No.520 of 2012 in the said suit for temporary injunction, which was disposed of with a direction to the opposite party to make payment of Rs.75,000/- towards monthly rent till disposal of the suit. In the said suit, the petitioner also filed I.A. No.552 of 2012 praying for a direction to the opposite party to pay monthly rent of Rs.84,000/- along with electricity and water charges as per consumption. The said I.A. No.552 of 2012 was disposed of by the learned Civil Judge (Jr. Division), Bhubaneswar with a direction to the

opposite party to pay monthly house rent of Rs.75,000/- along with water and electricity charges before the Court. Challenging the orders passed in I.A. No.520 of 2012 & I.A. No.552 of 2012, the opposite party preferred F.A.O. No.19 of 2013 & F.A.O. No.20 of 2013 respectively before this Court and the same were disposed of confirming the orders of the learned Civil Judge (Jr. Division), Bhubaneswar; but the civil suit remained pending. It was further contended by the learned counsel for the petitioner that the petitioner filed C.S. No.1718 of 2012 in the Court of Civil Judge (Sr. Division), Bhubaneswar, praying for a decree of eviction against the opposite party and for realization of arrear rent of Rs.11,49,120/- along with electric charges of Rs.1,79,630/- from the opposite party with interest accrued thereon. It was also contended that since parties are same so also the issues, the matter pending before the learned Civil Judge (Jr. Division), Bhubaneswar should be transferred to the Court of the learned Civil Judge (Sr. Division), Bhubaneswar for better and effective adjudication because the verdicts in both the suits, if at all disposed of by different Courts, may result in multiplicity of proceeding and the petitioner will be prejudiced thereby. On the other hand, for the best interest of the parties, the suit before the learned Civil Judge (Jr. Division),

Bhubaneswar should be transferred to the file of the learned Civil Judge (Sr. Division), Bhubaneswar for adjudication.

3. On the other hand, learned counsel appearing for the opposite party submitted that since the issues are different and parties have already started adducing evidence, the suits in question should not be transferred and the same should be decided on their merit by the respective Courts.

4. I have heard both parties and perused the petition including Lower Court Records in both the suits. Since a common issue with regard to the relationship between landlord and tenant is involved and the subject-matter in dispute are the same in C.S. No.506 of 2012 & C.S. No.1718 of 2012, there lies force in the submission of learned counsel for the petitioner. Even if evidence affidavit has already been filed in the Court of the learned Civil Judge (Sr. Division), Bhubaneswar, but the cross-examination has not yet commenced. It is well settled law that the petition for transfer should be considered for a fair trial and for the convenience of the parties. Thus, for the interest of the parties and for effective adjudication, both the suits should be heard by one Court, preferably the Court of Civil Judge (Sr. Division), Bhubaneswar, who has got both pecuniary and territorial jurisdiction over the matter. Hence ordered :

O R D E R

The petition filed under section 24 of the Code of Civil Procedure stands allowed against the opposite party without cost. C.S. No.506 of 2012 is withdrawn from the Court of Civil Judge (Jr. Division), Bhubaneswar and transferred to the Court of Civil Judge (Sr. Division), Bhubaneswar for disposal according to law. It is directed that both C.S. No.506 of 2012 & C.S. No.1718 of 2012 shall be heard analogously and judgments thereon shall be passed one after another by the learned Civil Judge (Sr. Division), Bhubaneswar.

**District Judge, Khurda
at Bhubaneswar.**

06.02.2015.

Dictated & Corrected.

**District Judge, Khurda
at Bhubaneswar.**

06.02.2015.