

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA

RAO

TRANSFER CIVIL MISCELLANEOUS PETITION

Nos.506 and 507 of 2013

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Date: 26.09.2013

Between:

Ande Pentaiah

and others.

Petitioners

AND

S. David(died)

S. Premanand and others.

Respondents

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Counsel for Petitioners : Sri B. Venkat Rama Rao.

Counsel for Respondents : -

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The Court made the following:

COMMON ORDER:

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Heard the learned counsel for the petitioners in both the cases at the stage of admission.

2. Tr.C.M.P.No.506 of 2013 is filed to transfer O.S.No.233 of 2001 on the file of the IV Additional Senior Civil Judge, Ranga Reddy District to the Court of the I Additional District Judge, Ranga Reddy District to be tried along with O.S.No.870 of 2013 pending on the file of the

said Court.

3. Tr.C.M.P.No.507 of 2013 is filed to transfer O.S.No.289 of 2007 on the file of the IV Additional Senior Civil Judge, Ranga Reddy District to the Court of the I Additional District Judge, Ranga Reddy District to be tried along with O.S.No.870 of 2013 pending on the file of the said Court.

4. The petitioners in these transfer petitions had filed O.S.No.233 of 2001 against the respondents in Tr.C.M.P.No.506 of 2013 before the IV Additional Senior Civil Judge, Ranga Reddy District for perpetual injunction restraining them from interfering with their peaceful possession and enjoyment of land to an extent of Ac.9-39gts in Medipally Village, Ghatkesar Mandal, Ranga Reddy District.

5. The respondents in Tr.C.M.P.No.507 of 2013 filed O.S.No.289 of 2007 (previously O.S.No.286 of 2001 on the file of the Principal Junior Civil Judge, East and North, Ranga Reddy District) against the petitioners for perpetual injunction restraining them from interfering with their alleged peaceful possession of the same land. This suit is pending before the IV Additional Senior Civil Judge, Ranga Reddy District.

6. The learned counsel for the petitioners states that certain orders were passed by the Revenue Authorities in

respect of certain entries made in revenue records and the matter ultimately culminated in a judgment dt.30.04.2010 in Special Leave to Appeal (Civil)...../2010 CC 6109/2010, wherein the Supreme Court, while dismissing the S.L.Ps observed that, what was decided by it was only with reference to revenue entries and that it was open to the petitioners to file a civil suit and if such a suit is filed, the civil court would decide the matter with reference to the evidence let in, without any observation being made by the High Court in the judgment impugned on the question of title.

7. Therefore, the petitioners allege that they were constrained to file O.S.No.870 of 2013 before the I Additional District Judge, Ranga Reddy District at L.B.Nagar in respect of the same property referred to above for the following reliefs:

- a) Plaintiffs be declared as absolute owners and possessors of the suit lands described in the schedule hereunder.
- b) Consequently, registered sale deeds doct. No.9603/2000, dt.18-12-2000, doct. No.9622/2000, dt.19-12-2000, doct.No. 9635/2000, dt.20-12-2000 and doct.No.9692/2000, dt.21-12-2000 obtained by defendants-1 to 3 from K. Srinivasa Charay be declared as null, void, inoperative and not binding on the plaintiffs.
- c) Perpetual injunction be granted as consequential relief restraining the defendants, their agents, servants or any person/s claiming through or under them from interfering in any manner with the plaintiffs possession over the suit lands described in the schedule hereunder.
- d) Plaintiffs be declared as entitled to get their names

restored/ entered in the revenue records of Medipally Village from 2000-01 onwards, as Pattedars and Possessors of the suit lands described in the schedule hereunder.

- e) Costs of the suit be awarded.
- f) Any other relief or reliefs to which the plaintiffs is entitled be granted.

8. In these Tr.C.M.Ps, the petitioners pray that both O.S.No.233 of 2001 and O.S.No.289 of 2007 pending on the file of the IV Additional Senior Civil Judge, Ranga Reddy District be transferred to the Court of the I Additional District Judge, Ranga Reddy District where O.S.No.830 of 2013 is pending, so that they may be tried jointly there. It is the contention of the learned counsel for the petitioners that since the subject matter of the suits is one and the same and the parties are also common, a joint trial would avoid conflicting decisions on the issue of title. It is also contended that it would avoid multiplicity of proceedings, if joint trial is ordered.

9. Admittedly, O.S.No.233 of 2001 was filed in the year 2001 and the trial in that suit has already commenced and PW.1 was also examined. That suit is being tried along with O.S.No.289 of 2007 on an order dt.20.11.2006 in Tr.O.P.No.789 of 2006 passed by the Principal District Judge, Ranga Reddy District at the instance of the petitioners only. Admittedly, both these suits O.S.No.233 of 2001 and O.S.No.289 of 2007 are for bare injunction

which is sought on the basis of the alleged possession of the plaintiffs therein of the plaint schedule property as on the date of filing of the said suits. Even the suit O.S.No.289 of 2007 was previously filed as O.S.No.286 of 2001 before the Principal Junior Civil Judge, East and North, Ranga Reddy District against the petitioners for perpetual injunction and on transfer it was renumbered as O.S.No.289 of 2007.

10. In my opinion, as O.S.No.233 of 2001 and O.S.No.289 of 2007(O.S.No.286 of 2001 old) are older suits and the trial in the O.S.No.233 of 2001 has already commenced, if they are now clubbed with O.S.No.870 of 2013 pending on the file of the I Additional District Judge, Ranga Reddy District, it would result in a further delay in disposal of the suits. It is unfortunate that both these suits which had been filed in the year 2001 are still at the stage of the trial and the trial has not been completed in spite of the lapse of 12 years. As these two suits are now being taken up by the IV Additional Senior Civil Judge, Ranga Reddy District and they are only for bare injunction based on possession of the respective plaintiffs as on the date of filing of the respective suits, any finding therein as to title would only be incidental to the decision therein. I am of the opinion that the interest of justice would be served if it is clarified that any decision on the issue of title in O.S.No.233 of 2001 and O.S.No.289 of 2007 is held to be

not binding on the parties in O.S.No.870 of 2013, which is comprehensive suit for declaration of title and other reliefs. As regards the contention based on multiplicity of proceedings is concerned, admittedly now three suits have been filed. Multiplicity of proceedings would be a consideration if one or other of the parties had sought amendment of pleadings in the suits filed in the year 2001 but once a third suit O.S.No.870 of 2013 has been filed, the said contention loses its significance.

11. In this view of the matter, both the Tr.C.M.Ps are rejected.

No costs.

12. As a sequel, miscellaneous applications pending in these Tr.C.M.Ps shall stand closed.

M.S.RAMACHANDRA RAO, J

26th September, 2013

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