

HONOURABLE SRI JUSTICE S.RAVI KUMAR

Tr.CMP.No.629 of 2014

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ORDER:

This petition is filed to withdraw O.S.No.175 of 2013 from Additional District Judge, Rajahmundry and transfer the same to IV Additional District Judge, Kakinada to be tried along with O.S.Nos.24 and 61 of 2013, and 26 of 2014.

Petitioner herein filed two suits ie., O.S.No.24 of 2013 and 26 of 2014 before IV Additional District Judge, Kakinada, whereas first respondent herein filed O.S.No.175 of 2013 before Additional District Judge, Rajahmundry, and O.S.No.61 of 2013 before IV Additional District Judge, Kakinada.

Heard both sides.

Advocate for petitioner submitted that both parties claimed their rights through two Wills executed by late M.Srihari Gopala Krishna, and the genuineness of these two Wills is the subject matter in both the suits. It is submitted that if the trial is taken place in different Courts there is likelihood of conflicting opinions in respect of Wills executed by late M.Srihari Gopala Krishna and to avoid conflicting opinion, all the suits have to be tried by one Court. It is submitted that as three suits are pending before IV Additional District Judge, Kakinada, the only suit which is pending in the Court of Additional District Judge, Rajahmundry may be withdrawn and transferred to Kakinada Court for joint trial.

Advocate for respondents submitted that the properties covered by O.S.No.175 of 2013 is different and they are at Rajahmundry and except that he has no other objection for transfer of the suit.

I have perused the material papers including the plaint copies filed along with transfer petition.

As seen from the material, the petitioner claims the properties on the

basis of a registered a Will dated 14.09.2010, whereas, claim of respondent No.1 is based on unregistered Will dated 26.01.2012 and the correctness of these two Wills has to be decided during trial. As rightly pointed out by advocate for petitioner if these four suits are tried by two different Courts, there is likelihood of conflicting opinions, therefore, to avoid the same, I feel it is just and necessary to withdraw the suit i.e., pending before Rajahmundry Court and transfer the same to Kakinada Court for a comprehensive trial.

For these reasons, O.S.No.175 of 2013 is withdrawn from Additional District Judge, Rajahmundry and transferred to IV Additional District Judge, Kakinada to be tried along with O.S.Nos.24 and 61 of 2013, and 26 of 2014.

Transfer petition is ordered accordingly. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE S.RAVI KUMAR

Dt.16th April, 2015

PNV