

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.4247 of 2015

Date: 31-12-2015

Between:

Kotha Venkateswarlu

.... Petitioner

AND

Ganisetti Venkata Rajendra Prasad and
13 others

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.4247 of 2015

ORDER:

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The 2nd defendant in O.S.No.145 of 2004 on the file of IV Additional District Judge, Tanuku is the petitioner herein. The said suit was filed for cancellation of sale deeds dated 06-06-1991 and 07-06-1991 in respect of A-schedule property and sale deed dated 13-09-1999 in respect of B-schedule property in favour of the 2nd defendant, who is petitioner herein. He filed I.A.No.222 of 2013 to consolidate the said suit with O.S.No.146 of 2009 filed by some third party for specific performance of the agreement of sale executed by the plaintiffs in O.S.No.145 of 2004 wherein the petitioner was also impleaded. The trial Court dismissed the said application on 18-02-2015 with the following observations:

".....In cases where parties are common and matter is absolutely similar, to avoid multiplicity of suits and to eliminate chances of conflicting decisions on the same point consolidation of two or more suits can be ordered. Sufficient similarity of the issues arising for decision in two suits

enables the two suits being consolidated for trial and decision and the purpose is to relieve to adduce similar documentary and oral evidence twice over in two suits at two different trials. Since issues are different, there may be no similar evidence. Only one common point is agreement of sale executed relating to part of property in O.S.145/04. Already O.S.145/04 is in comprehensive nature and different properties are covered in that suit i.e. one property which is situated at Tanuku jurisdiction and other property which is situated at Rajole of East Godavari District. This Court is of the considered view that issues are altogether different and issues were also framed very comprehensively. In such circumstances, if both the suits are consolidated clear evidence relating to main aspects may not be possible due to the comprehensiveness. On the other hand, this court came to conclusion that conducting simultaneous trial in both the cases is alternative and opt relief than the consolidation....”

This Court noticed that O.S.No.145 of 2004 is a comprehensive suit seeking cancellation of three sale deeds and for recovery of possession after ejecting the 1st defendant in the said suit. O.S.No.146 of 2009 was filed by the third party against the petitioner herein/2nd defendant in O.S.No.145 of 2004. The relief in both the suits is different. There is no common ground except commonality of some parties in both the suits. The evidence cannot be recorded in one suit. Both the suits should go independently. In the circumstances, the order dated 18-02-2015 in I.A.No.222 of 2013 in O.S.No.145 of 2004 does not warrant any interference and hence, the Civil Revision Petition is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 31-12-2015

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