

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.831 of 2014

ORDER:

This Revision petition is filed challenging the order dated 06.12.2013 in Tr.O.P.No.513 of 2013 by the Principal District Judge, at L.B.Nagar.

2. The petitioner herein had filed O.S.No.544 of 2009 on the file of the Additional Junior Civil Judge-cum-XVII Metropolitan Magistrate, at Rajendernagar, Cyberabad, for specific performance of agreement of sale dated 15.05.2003 allegedly executed in his favour by respondent No.1 herein and the said suit is coming up for cross-examination of PW.1

3. Respondent Nos.2 to 5, who are daughters of respondent No.1, filed O.S.No.2352 of 2011 before the Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, contending that the property which is subject matter of O.S.No.544 of 2009 was purchased by the husband of respondent No.1 on 24.09.1976 and on his death all the respondents have a share therein and that respondent No.1 was attempting to alienate the property. The petitioner herein was also shown as defendant No.2 in the said suit.

4. Transfer O.P.No.513 of 2013 was filed by respondent No.1 to club both the suits contending that the subject matter of both the suits is one and the same and

that respondent No.1 and petitioner are parties to both the suits and if the suits are tried separately, there is likelihood of conflicting judgments.

5. The petitioner opposed the transfer of O.S.No.544 of 2009 to the Court of the I Additional Senior Civil Judge, Ranga Reddy at L.B.Nagar, contending that respondent Nos.2 to 5 were not parties in O.S.No.544 of 2009 filed by him and that it not necessary to club both suits for joint trial. He further contended that the suit O.S.No.2352 of 2011 was got filed by respondent No.1 through her daughters ie., respondent Nos.2 to 5 and is a collusive suit.

6. By order dated 06.12.2013, the Court below allowed Tr.O.P.No.513 of 2013. It held that in order to avoid conflicting decisions if the suits are tried by different Courts and since the subject matter is one and the same and the parties in O.S.No.544 of 2009 are also parties in O.S.No.2352 of 2011, it is a fit case to transfer O.S.No.544 of 2009 to the Court of I Additional Senior Civil Judge, Ranga Reddy at L.B. Nagar, to be tried along with O.S.No.2352 of 2011.

7. Questioning the same, this revision is filed.

8. Sri C. Kumar, learned counsel for the petitioner contended that the relief claimed in the suit of specific performance is different for the relief claimed in O.S.No.2352 of 2011; the petitioner was unnecessarily impleaded in O.S.No.2352 of 2011 by respondent Nos.2

to 5; and there was absolutely no necessity to club both suits and conduct joint trial therein.

9. Sri K. Venumadhav, learned counsel for respondent No.1 supported the order passed by the Court below.

10. From the facts narrated above, it is clear that the property, which is subject matter of O.P.No.544 of 2009 is also the subject matter of O.S.No.2352 of 2011. More over, the petitioner and respondent No.1 are parties in both suits. The question to be decided in O.S.No.544 of 2009 is no doubt whether the petitioner is entitled to the relief of specific performance of agreement of sale said to have been executed in his favour in the year 2003 by respondent No.1, but the very right of respondent No.1 to deal with the property as an exclusive owner thereof is in issue in O.S.No.2352 of 2011. Therefore, it is just and necessary to decide both the suits together to avoid conflicting judgments.

11. In this view of the matter, I do not find any error in the order passed by the Principal District Judge, at L.B.Nagar, Ranga Reddy District, in allowing Tr.O.P.No.513 of 2013.

12. Accordingly, the civil revision petition is dismissed. No costs.

13. Miscellaneous Petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

1st September 2015

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