

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.2909 of 2014

-
Date:30.01.2015

Between:

Moola Kondamma

..... Petitioner.

AND

Chowda Naga Subbaiah

.....Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.2909 of 2014

-
ORDER:

-
This revision is preferred against docket order dated 1-8-2014 in O.S.No.409/2009 on the file Principal Junior Civil Judge, Kadapa whereunder the trial Court refused to club O.S.No.883/2007 with O.S.No.409/2009 for a common trial.

2. Heard both sides.

3. Advocate for revision petitioner submitted that the issues involved in O.S.No.883/2007 & O.S.No.409/2009 are one and

the same and both the suits have to be clubbed to avoid conflicting decisions.

4. On the other hand, Advocate for respondent submitted that petitioner earlier filed I.A.No.257/2010 for a joint trial of these two suits and Court dismissed that applications on merits and that order has become final and no revision is preferred against that order and in view of that order seeking very same relief by way of a memo is not maintainable and that the trial Court has not committed any error.

5. Now the point that would arise for my consideration in this revision is whether the order of the Court below is legal, proper and correct?

6. **Point:-**As seen from the record, the suit in O.S.No.409/2009 is filed for permanent injunction and O.S.No.883/2007 is filed for mandatory injunction. As seen from the material, plaintiff in O.S.No.409/2009 filed I.A.No.257/2010 requesting for a joint trial of these two suits and the Court below by an order dated 28-06-2010 dismissed the said application holding that subject matter of both the suits is different and cause of action for filing both the suits is also different. After dismissal of the said application, no revision is preferred against that order and that order has become final. The very same plaintiff filed memo seeking the same relief, which was refused by the trial Court. Learned trial Judge passed a detailed order on 01-8-2014 assigning reasons for not accepting the request of joint trial and the trial

Judge also considered the fact that I.A.No.257/2010 for the same relief of joint trial was dismissed and became final. As seen from the impugned order, O.S.No.883/2007 is at the stage of arguments, whereas O.S.No.409/2009 was at the stage of recording evidence when the impugned order is passed. As rightly pointed out by Advocate for respondent when a detailed order is passed in I.A.No.257/2010 refusing the relief of joint trial seeking the very same relief by way of a memo is not permissible and the learned trial Judge has rightly refused request of the revision petitioner. As seen from the record the cause of action for both the suits is distinct and different.

7. Considering these aspects, I am of the view that the trial Court has not committed any error in refusing the memo and there are absolutely no grounds to interfere with the orders of the trial Court.

8. Accordingly, revision is dismissed. No costs.

9. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:30.01.2015

mrh