

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
CIVIL REVISION PETITION No.3950 of 2015

ORDER:

Petitioner herein is the plaintiff and respondents herein are the defendants in O.S.No.46 of 2004 on the file of the Court of the Junior Civil Judge, Kothavalasa. The petitioner filed the above suit against the respondents seeking declaration of her title to the suit schedule property and also to declare that she is the legally wedded wife of late Appa Rao. Her evidence was completed and the suit is coming up for further evidence of the second respondent.

2. At that stage, it appears that the learned Junior Civil Judge made some adverse comments during the course of examination of D.W.4. It is also alleged that when the petitioner filed an application for impleading the second defendant in the suit with consequential amendment of prayer, no orders were passed in the said application. The petitioner is stated to be aged about 90 years and the suit is pending for the last 11 years. Since the petitioner lost faith in the said Court, she filed Transfer O.P.No.309 of 2015 before the Court of Principal District Judge, Vizianagaram seeking transfer of O.S.No.46 of 2004 from the Court of Junior Civil Judge, Kothavalasa to any other Court of the Junior Civil Judge, preferably to the Principal Junior Civil Judge, Vizianagaram. The learned District Judge dismissed the said Transfer OP on 01.09.2015 on the ground that the adverse comments made by the learned Junior Civil Judge were not incorporated in the affidavit, and in the absence of which, it cannot be assumed that those words are adverse to the interest of the petitioner. He also opined that none of the grounds raised by the petitioner are worthy to consider the application for transferring the case to another Court. The learned District Judge also opined that since this Court, in C.R.P.No.2332 of 2013, directed the trial Court to complete the trial of the suit within six months, the petitioner might have filed the

Transfer Petition to procrastinate the trial.

3. The learned counsel for the petitioner submits that the petitioner is aged about 90 years and she is interested in early disposal of the suit. All the parties in the suit are residents of Visakhapatnam and the Court at Kothavalasa is in between Visakhapatnam and Vizianagaram.

4. In the order passed by the learned District Judge, there is no observation with regard to the pending applications of the petitioner, the details of which are given in paras 5 and 6 of the affidavit. The petitioner might not have mentioned the adverse comments in order not to cause embarrassment to the Presiding Officer.

5. Keeping in view that the justice should not only be done, but it must also be seen to be done and also keeping in view the age of the petitioner, this Court is inclined to transfer O.S.No.46 of 2004 pending on the file of the Court of the Junior Civil Judge, Kothavalasa to the Court of the Principal Junior Civil Judge, Vizianagaram. The Principal Junior Civil Judge, Vizianagaram shall dispose of the suit as expeditiously as possible, keeping in view the observations made by this Court in CRP.No.2332 of 2013 dated 25.07.2014, but not later than 30.04.2016. The parties to the suit shall cooperate for early disposal of the suit.

6. Accordingly, the Civil Revision Petition is allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.11.2015

TJMR