

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No. 491 of 2013

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ORDER:

This petition is filed to withdraw A.S.No.1 of 2013 from the file of Family Court, Adilabad and transfer the same to this Court to be tried along with LAAS No.104 of 2013.

2. Petitioners herein are defendants in O.S.No.11 of 2010 and claimants in LAOP No.21 of 2009 and both these matters are tried together and a common judgment dated 17.08.2012 is passed. Aggrieved by the said common judgment, petitioners herein filed A.S.No.1 of 2013 dissatisfied with the judgment in O.S.No.11 of 2010 and preferred LAAS No.104 of 2013 against apportionment made in LAOP No.21 of 2009.

3. Petitioners contended that as both appeals arise out of common judgment, they have to be heard together, and to avoid conflicting decisions, A.S.No.1 of 2013 has to be withdrawn from Family Court, Adilabad and transferred to this Court.

4. Heard arguments.

5. Advocate for petitioners submitted that on account of jurisdiction, the appeal against judgment in the suit is filed before District Court, Adilabad, which is now pending in Family Court, Adilabad and against the orders in L.A.O.P., the appeal is preferred before this Court and both the cases have to be tried together to avoid conflicting opinions.

6. Other side advocate prayed for further time on the ground that they have to receive instructions from their clients. As seen from the proceeding sheet, already three adjournments are granted to the respondent, in spite of that, no counter is filed disputing the affidavit averments of petitioners.

7. I have perused the material papers including common judgment dated 17.08.2012. As rightly pointed out by advocate for petitioners even the evidence

is also recorded both in the suit and in land acquisition O.P., both the cases are disposed of considering the common evidence recorded in both the matters. Aggrieved party preferred appeals separately in view of the partition decree passed in favour of respondents and also apportionment of compensation amount to the respondent. Appeal against judgment in suit is before the Family Court, Adilabad, whereas the Land Acquisition Appeal is pending before this Court, to avoid conflicting decisions, both the matters have to be tried by one Court.

8 . For these reasons, the appeal pending before District Court i.e., Family Court, Adilabad has to be withdrawn for disposal along with LAAS No.104 of 2013.

9 . Accordingly, Transfer Civil Miscellaneous Petition is allowed and A.S.No.1 of 2013 is withdrawn from Family Court, Adilabad and transferred to this Court to be tried along with LAAS No.104 of 2013. No costs.

Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 26-03-2015

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