

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.3051 and 3403 of 2014

COMMON ORDER :

These two Revisions arise between the same parties in two different suits, but since common issues arise for consideration, they are being disposed of by this common order.

2. The petitioner herein is the 1st defendant in O.S.No.100 of 2011 on the file of Junior Civil Judge, Gurazala which was filed by 1st respondent in CRP.No.3051 of 2014/2nd respondent in CRP.No.3403 of 2014. The said suit was filed for declaration and for other reliefs.

3. The petitioner had also filed OS.No.385 of 2007 on the file of the Principal Junior Civil Judge Court, Gurazala against respondent nos.1 and 2 in both the Revisions for partition of their undivided joint family properties.

4. Both the above suits were decreed.

5. E.P.No.20 of 2011 in O.S.No.385 of 2007 was filed by petitioner to execute the decree in O.S.No.385 of 2007. In that E.P., E.A.No.135 of 2011 was filed by one Chavva Inna Reddy under Order 21 Rule 97 C.P.C. to adjudicate his claim by declaring his title to the property.

Prior thereto, the petitioner had obtained a final decree dt.16.09.2010 in I.A.No.613 of 2009 and it was alleged by the said Chavva Inna Reddy that the decree was obtained behind his back. The trial court dismissed E.A.No.135 of 2011, but the Court of the Senior Civil Judge, Gurazala allowed the appeal A.S.No.13 of 2011 filed by Chavva Inna Reddy on 24.07.2012, remanded E.A.No.135 of 2011 back, and directed the Principal Junior Civil Judge, Gurazala to decide the same within three (3) months.

6. Thus, the said application is pending.

7. It is also not in dispute that the judgment in O.S.No.100 of 2011 was challenged in AS.No.14 of 2011, and the said appeal was allowed; and the matter was remanded back to the Court of the Principal Junior Civil Judge, Gurazala to hear the matter afresh.

8. Tr.O.P.Nos.418 and 419 of 2013 were filed by petitioner impleading the respondents under Section 24 CPC seeking transfer of O.S.No.385 of 2007 and O.S.No.100 of 2011 from the Court of the Principal Junior Civil Judge, Gurazala to any other Court.

9. In both these applications, the petitioner alleged that he was subjected to threats and beatings by the opposite party therein resulting in even registration of a criminal case, and forcing the petitioner to leave his village; the petitioner's Advocate came under the

influence of the Advocate for the opposite party, who is an Additional Public Prosecutor, in the Court of the Senior Civil Judge, Gurazala and was forced not to do the cases of petitioner; the petitioner's Advocate helped the respondents and has colluded with them; the court staff of the Court of the Junior Civil Judge had also not co-operated with him and he had lodged a complaint with the High Court against them; that the Court staff did not execute the warrant for delivery of property obtained by petitioner in collusion with the opposite party and their Advocate; that no Advocate now is coming forward to appear on behalf of petitioner, being afraid of the respondents and their Advocate, thereby forcing the petitioner to appear as a party-in-person; that was why the Senior Civil Judge, Gurazala had allowed the appeal without hearing the version of petitioner; that petitioner being a lonely person cannot withstand the harassment of respondents and nobody is helping him, including the police; and therefore, both the proceedings be transferred to any other court other than the Principal Senior Civil Judge, Gurazala.

10. By separate orders dt.02.06.2014, the Principal District Judge, Guntur dismissed both the Transfer OPs. He held that the fact that petitioner is being threatened by respondents cannot be a ground to transfer the O.P. to another court; if the petitioner's grievance is that no Advocate is coming forward to help him, he could

approach the Legal Services Authority and get an Advocate of repute appointed; and can also lodge a complaint against his Advocate, who he claims to have colluded with other party with the Bar Council of the State of Andhra Pradesh; that bald allegations were made against the staff members of the Principal Junior Civil Judge Court, Gurazala without giving any specific instances of their alleged non-cooperation, and without any material it won't be proper to transfer the case to another court. He, therefore, held that there are no grounds made out for transfer of both matters to a different Court.

11. Challenging the same, the present Revisions are filed.

12. Heard Sri B. Apparao, counsel for petitioner; Sri Kuna Reddy Anji Reddy, counsel for 3rd respondent in CRP.No.3051 of 2014; and Sri P. Rajeswara Rao, counsel for 2nd respondent in CRP.No.3403 of 2014.

13. The counsel for petitioner reiterated the grounds urged by his client in the District Court and has also relied upon a complaint said to have been lodged by his client on 03.02.2014 with the Office of the Junior Civil Judge who is hearing E.P.No.20 of 2011 in O.S.No.385 of 2007 making allegations against the staff of the said court and also other complaints made to the District Collector. He

sought to contend that on the basis of these complains, the matter ought to be transferred to a different Junior Civil Judge's Court.

14. It is pertinent to note that in the affidavit filed in support of both Tr.O.P.s no details of any illegal conduct on the part of the staff of the court of Principal Junior Civil Judge, Gurazala had been made. It is stated baldly that the said staff had not cooperated with him. Without placing any material before the District Court in support of his plea that the staff of the Court colluded with the opposite party, petitioner cannot seek transfer of the matters to a different court. Even though the incident (in respect of which the petitioner is alleging that the staff of the said court did not co-operate) took place in 2011, complaint in respect thereof appears to have been lodged only on 03.02.2014 before the said Court by marking a copy to the District Court. For three years after the alleged incident, admittedly the petitioner had kept quiet and has filed the complaint belatedly.

15. Be that as it may, since the said complaint was forwarded by the District and Sessions Judge, Gurazala to the Registrar (Vigilance) of the High Court, the matter will be looked into by the High Court on the administrative side, and if any allegations are found proved appropriate action might be initiated against the said staff.

16. At this point of time, since the allegations made

against the staff of the Court of the Principal Junior Civil Judge, Gurazala have not been established and are pending enquiry, the same cannot be the ground to transfer the suit particularly, when the complaint against the staff has been lodged three years after the alleged incident involving the staff of the said court.

17. Merely because petitioner's own counsel is not co-operating with him and it is alleged that he is not acting according to his instructions and is alleged to be colluding with the opposite party, the matters cannot be transferred. It is open to petitioner to engage a counsel in whom he has confidence or to request the District Legal Services Authority to make available the services of a good Advocate to argue on his behalf in the Court below.

18. I am therefore of the opinion that the petitioner has not made out any case for transfer of both matters to another court other than the court of the Principal Junior Civil Judge, Gurazala; and that the District Judge has rightly dismissed the Tr.O.Ps. Therefore, CRP.Nos.3051 and 3403 of 2014 are without any merit. They are accordingly dismissed. No order as to costs.

19. Since the counsel for petitioner has requested that the matters are pending before the Principal Junior Civil Judge, Gurazala, the Court below is directed to dispose of O.S.No.100 of 2011 and E.A.No.135 of 2011 in E.P.No.20

of 2011 in O.S.No.385 of 2007 expeditiously after hearing both sides, preferably within a period of six (06) months from the date of receipt of a copy of this order.

20. As a sequel, miscellaneous petitions pending if any in these Revisions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21.08.2015

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