

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.510 of 2014

ORDER :

This petition is filed to withdraw A.S.No.405 of 2011 from the file of VII Additional District Judge, Vijayawada, and transfer the same to this Court to be heard along with A.S.No.772 of 2011.

2. Petitioners are defendants in both the suits. Respondents herein filed O.S.No.499 of 2007 for declaration of title and consequential permanent injunction in respect of immovable property and they also filed O.S.No.882 of 2005 for permanent injunction and both the suits were tried together and a common judgment is passed on 10.10.2011. Aggrieved by the judgment in O.S.No.499 of 2007, petitioners herein preferred A.S.No.772 of 2011 and the same is pending before this Court. Aggrieved by the judgment in O.S.No.882 of 2005, petitioners herein preferred A.S.No.405 of 2011 before District Judge and the same is pending before VII Additional District Judge, Vijayawada. These two appeals are preferred in different Courts due to pecuniary jurisdiction and now the contention of petitioners is that both the appeals have to be tried by one Court and as the comprehensive suit is O.S.No.499 of 2007 against which appeal is pending before this Court, the other appeal pending before Vijayawada has to be transferred for

disposal in accordance with law.

3. Respondents in spite of service of notice neither appeared in person nor through any Advocate.

4. Heard arguments of advocate for petitioners.

5. It is submitted that subject matter of both the suits is one and the same and the parties are common and common evidence was recorded in both the suits and a common judgment was delivered, therefore, these two appeals arising out of common judgment have to be heard together.

6. I have perused the material papers filed along with transfer C.M.P. including common judgment dated 10.10.2011 of I Additional Senior Civil Judge, Vijaywada. Considering the reasons stated in the affidavit, I am of the view that to avoid conflicting decisions, both the appeals have to be tried by one Court, therefore, A.S.No.405 of 2011 is withdrawn from the file of VII Additional District Judge, Vijayawada and transferred to this Court, to be heard along with A.S.No.772 of 2001, for disposal in accordance with law.

7. Accordingly, transfer C.M.P. is allowed. No costs.

8. Miscellaneous Petitions, if any, shall stand closed.

S. RAVI KUMAR, J

10th February 2015.

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