

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.469 of 2014

ORDER:

This petition is filed to withdraw O.P.No.83 of 2011 from the file of Senior Civil Judge, Gudur, Nellore District and transfer the same to Principal Senior Civil Judge, Tadepalligudem, West Godavari District to be tried along with O.S.No.228 of 2011.

2. Petitioner herein filed O.P.No.83 of 2011 before Senior Civil Judge, Gudur, Nellore District for cancellation of succession certificate issued in S.O.P.No.761 of 2010 dated 09.02.2011. She also filed O.S.No.228 of 2011 before Principal Senior Civil Judge, Tadepalligudem for declaration of title to the properties left behind by her late sister T. Surya Kumari against respondent herein. It appears both parties are claiming rights over the property of late Surya Kumari on the basis of Wills executed by her.

3. Heard arguments.

4. Advocate for petitioner submitted that genuineness of the Wills pleaded by both parties have to be decided in the comprehensive suit O.S.No.228 of 2011 and as the succession certificate was also granted on the basis of Will for which petitioner filed O.P. for cancellation of succession certificate wherein correctness of Wills relied on by both parties has to be decided. He further submitted to avoid conflicting decisions these matters have to be tried by one Court.

5. Other side advocate opposed the petition and contended that O.P. is not maintainable sine the Senior Civil Judge cannot cancel the succession certificate issued by District Judge. However, this

objection is a matter to be decided by the trial Court and by giving liberty to respondent herein to raise all the objections including objection of maintainability before the trial Court, O.P.No.83 of 2011 filed by petitioner herein can be transferred.

6. Considering the submissions by both sides and considering the fact that the correctness of the Wills have to be decided by one Court to avoid conflicting decisions, O.P.No.83 of 2011 on the file of Senior Civil Judge, Gudur is withdrawn and transferred to Principal Senior Civil Judge, Tadepalligudem to be tried along with O.S.No.228 of 2011.

7. Accordingly, the Transfer Miscellaneous Petition is allowed. No costs. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

S. RAVI KUMAR, J

Date: 13.02.2015.

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