

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.43 OF 2013

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ORDER :

This transfer petition is filed to withdraw OS No.100 of 2010 on the file of the XI Additional District Judge, Krishna District at Guduwada and transfer the same to the Court of XIV Additional Chief Judge (Fast Track), City Civil Courts, Hyderabad to be tried along with OS No.589 of 2010.

2. It is the case of the petitioner that she is the sole defendant in O.S.No.589 of 2010 filed in the Court of the XIV Additional Chief Judge (Fast Track), City Civil Courts, Hyderabad, by the respondents 1 to 4 for the relief of declaration and recovery of possession and perpetual injunction. The petitioner is defendant in O.S.No.100 of 2010 on the file of the XI Addl. District Judge, Krishna District at Guduwada, filed by the respondents 5 and 6 herein for the relief of declaration and permanent injunction and both the suits are pending. It is stated that the suit schedule property in O.S.No.589 of 2010 is also one of the items of plaint schedule property in O.S.No.100 of 2010 and the parties are also similar in both the suits. Part of the suit schedule property in O.S.No.589 of 2010 is claimed by the wife of Chandika Sambasiva Raju and the respondents 3 to 6 are also claiming as legal heirs of Chandika Sambasiva Raju. Respondents 1 and 2 are also claiming the rights over the suit schedule property as brothers of Chandika Sambashiva Raju. It is the case of the petitioner that she is unable to travel all the way to Vijayawada.

3. Counter affidavit is filed by the 1st respondent denying the averments in the affidavit filed in support of the petition stating that OP No.803 of 2005 filed by the petitioner claiming as successor to late Chandika Sambasiva Raju as legally wedded wife was dismissed on 07.04.2009, as such, she has no *locus standi* to defend the suits i.e., O.S.No.589 of 2010 and OS 100 of 2010. It is also stated that the 1st respondent is old aged and he had undergone by-pass surgery, as such, he could not travel all the way to Hyderabad for pursuing the OS No.589 of 2010. It is also stated that the Transfer Petition filed by the

respondents 3 to 6 was also dismissed earlier.

4. Heard Party-in-person and Sri A.Raghavaiah, learned counsel for the respondents 1 and 2.

5. In the instant case, it is to be seen that the subject matter of the plaint schedule property in O.S.No.589 of 2010 is also one of the items of plaint schedule property in O.S.No.100 of 2010 and all the parties are claiming to be legal heir of late Chandika Sambasiva Raju either as wife, children or brothers through will and the parties are also similar. As such, both the suits are required to be heard together in order to avoid conflicting judgments and in order to save the time of one Court at least. No doubt Tr.CMP No.507 of 2009 filed by the respondents 3 to 6 was dismissed. But the petitioner is neither a party before the Court below in O.S.No.100 of 2010 on that date nor in the transfer petition filed by the respondents 3 to 6, which was dismissed. Now, it is the case of the petitioner that she is old aged woman and she is unable to defend the suit in O.S.No.100 of 2010 by travelling all the way to Vijayawada. The petitioner and the 4th respondent are staying at Hyderabad. Respondents 5 and 6 are staying at USA. For both the respondents 5 and 6, it cannot make much difference if the suit is tried at Vijayawada or at Hyderabad. Moreover, Hyderabad is more convenient place for the respondents 5 and 6. The 4th respondent is also residing at Hyderabad.

In view of the same, I deem it proper that OS.No.100 of 2010 pending on the file of the XI Additional Judge, Krishna District at Gudiwada, is transferred to the Court of the XIV Additional District Court (Fast Track), City civil Court, Hyderabad, to be tried along with O.S.No.589 of 2010.

Accordingly, this transfer petition is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

20.11.2015

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