

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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Tr.C.M.P. No.119 of 2015

Between:

Chinta Syamala devi

.. Petitioner

and

Thokala Lalitha devi and 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 31.07.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

1. Whether Reporters of Local newspapers Yes/No

may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals?

3. Whether his Lordship wishes to Yes/No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.119 of 2015

ORDER:

This petition is filed under Section 24 of C.P.C. to withdraw O.S.No.96 of 2013 from the file of the Principal Junior Civil Judge, Nuzvid, Krishna District and transfer the same to the file of

XI Additional District Judge (Fast Track Court), Guntur at Tenali to be tried along with O.S.No.10 of 2014 in accordance with law.

2. In spite of service of notice, respondent Nos.2 and 3 did not choose to appear and contest the matter. Hence, I am inclined to dispose of the matter on merits in the absence of respondent Nos.2 and 3.

3. Heard the learned counsel for both the parties and perused the affidavit filed in support of the petition, and the counter of respondent No.1.

4. The facts leading to filing of the present petition, in brief, are as follows:

The petitioner is the daughter, the first respondent is the wife and the second respondent is the daughter and the third respondent is the grand son of late T.Koteswara Rao. The petitioner filed O.S.No.295 of 2013 on the file of the District and Sessions Judge, Guntur, which was renumbered as O.S.No.10 of 2014 on the file of XI Additional District Judge (Fast Track Court), Guntur at Tenali against respondent Nos.1 and 2 and one R.Srividya for partition of the suit schedule properties. Respondent Nos.2 and 3 filed O.S.No.96 of 2013 against the petitioner and respondent No.1 herein for perpetual injunction in respect of the lands situated in Kanumolu village of Bapulapadu Mandal, Krishna District.

5. The contention of the petitioner is that the properties covered in O.S.No.10 of 2014 and O.S.No.96 of 2013 are originally belongs to late Koteswara Rao, who is the father of the petitioner and the second respondent, husband of the first respondent and grand father of the third respondent. The suit schedule property in O.S.No.96 of 2013 is part and parcel of suit schedule property in O.S.No.10 of 2014. The suit filed by the petitioner is a comprehensive suit. The rights of the petitioner and the respondents will be decided in O.S.No.10 of 2014. In a suit for perpetual injunction, the Court has to consider who was in possession of the property as on the date of filing of the suit only. In a suit for partition, the Court has to decide the rights of the parties to the suit. If the Principal Junior Civil Judge at Nuzvid and XI Additional District Judge (Fast Track Court), Guntur at Tenali are allowed to conduct separate trial and pass judgments, there is likelihood of conflicting judgments. In order to avoid conflicting judgments and multiplicity of litigation, I am of the considered view that it is just and necessary to withdraw O.S.No.96 of 2013 from the file of the Principal Junior Civil Judge, Nuzvid, Krishna District and transfer the same to the file of XI Additional District Judge (Fast Track Court), Guntur at Tenali to be tried along with O.S.No.10 of 2014 in accordance with law.

6. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.S.No.96 of 2013 is withdrawn from the file of the Principal Junior Civil Judge, Nuzvid, Krishna District and transferred to the file of XI Additional District Judge (Fast Track Court),

Guntur at Tenali to be tried along with O.S.No.10 of 2014 in accordance with law.
There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 31.07.2015

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