

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION NO.4018 OF 2013

ORDER:

The present revision is filed against an order dated 21.03.2013 passed by the learned Principal District Judge, East Godavari at Rajahmundry, in Transfer O.P.No.139 of 2013.

The petitioner herein is the plaintiff in O.S.No.517 of 2012, which was instituted on the file of the Principal Senior Civil Judge's Court, Rajahmundry (renumbered as O.S.No.109 of 2013). The cause of action for instituting the said civil suit O.S.No.517 of 2012 is that the defendants in the suit have committed breach of an agreement of sale and hence, the amount of Rs.3,00,000/- paid by the petitioner/plaintiff in O.S.No.517 of 2012 is liable to be refunded by the defendants in that suit together with interest.

It appears, another civil suit O.S.No.36 of 2012 was filed on the file of the Additional District Court-cum-Special Court for SCs and STs (Prohibition of Atrocities) Act. Transfer O.P.No.139 of 2013 is moved seeking transfer of civil suit O.S.No.517 of 2012, which was pending on the file of the Principal Senior Civil Judge's Court, Rajahmundry, to the learned Additional District Judge's Court, Rajahmundry, where O.S.No.36 of 2012 is pending, so that both these suits can be clubbed together and tried.

When two suits are pending, one on the file of a Senior Civil Judge's Court and another on the file of a District Court, the suit pending on the file of the Senior Civil Judge's Court has to be transferred to the District Court, but not vice versa, in view of the limits of pecuniary jurisdiction prescribed for the respective Courts. Therefore, the Principal District Judge, East Godavari District, has directed O.S.No.517 of 2012 instituted by the present petitioner herein to be transferred to the District Court to be tried along with O.S.No.36 of 2012 pending thereon. I do not find any infirmity, legal or otherwise, in the order passed by the learned Principal District Judge in ordering

Transfer O.P.No.139 of 2013, for me to interfere with the said order in exercise of revisional jurisdiction.

However, Sri T.S.Anand, learned counsel for the petitioner, would submit that the parties are leading evidence only with regard to suit O.S.No.36 of 2012 and no evidence is allowed to be let in with regard to suit renumbered O.S.No.109 of 2013 (old O.S.No.517 of 2012) and consequently, the present petitioner's case will get adversely effected.

I am sure, the learned Additional District Judge-cum-Special Court of SCs and STs (Prevention of Atrocities) Act would permit the petitioner herein, who is the plaintiff in renumbered O.S.No.109 of 2013 (old O.S.No.517 of 2012), to lead evidence on his behalf and if the defendants in that suit also seek to lead evidence, allow them also to lead evidence and consider it exclusively for deciding the *lis* in renumbered O.S.No.109 of 2013 (old O.S.No.517 of 2012).

With this order, the revision stands disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(NOOTY RAMAMOHANA RAO, J)

12th March 2015
RRB