

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**CIVIL REVISION PETITION No.4484 of 2015**

**ORDER:**

Heard Sri S.Sharath Kumar, learned counsel for the petitioner. Pursuant to the notice issued in this revision, notice was delivered to the respondent, in fact he has entered appearance in the above case through Sri Ali Farooq, but the learned counsel is not present in court today and there is also no representation on his behalf.

The present revision is preferred against the order passed in I.A.No.657 of 2015 in O.S.No.36 of 2015 on the file of the Principal Junior Civil Judge's Court, Ranga Reddy District at L.B.Nagar, seeking stay of all further proceedings in the suit. It is represented that there is another suit, O.S.No.1650 of 2013 which is pending on the file of the VII Additional District Judge's Court (S.C./S.T. Court) seeking partition and separate possession, whereas the present suit is filed for a mandatory direction to the defendant to vacate and handover the vacant, peaceful and actual possession of the suit schedule premises bearing H.No.1-7-86/2 Old (New No.1-7-288), Kothapet, Chaitanyapuri, Dilsukhnagar; damages are also sought. The plaintiff is the father and the defendant is the son. Since the suit for partition viz., O.S.No.1650 of 2013 is pending before the VII Additional District Judge's Court (S.C/S.T Court) Ranga Reddy District, the present interlocutory application is filed and the Court below has ordered the said interlocutory application. While it is true that when a suit for partition is pending between the same parties, suit for eviction of one of them from the suit schedule property, perhaps, will have to wait for the decision in the partition suit, but the more appropriate course would have been to transfer the present suit to be tried along with the partition suit.

Should the Court below come to the conclusion that the suit scheduled property is required to be divided amongst the plaintiff and

the defendant in that suit, who are the same parties as in the present suit, then the question of decreeing the present suit would never arise. On the other hand, if the plea of the present plaintiff in this suit is upheld and the Court arrives at the conclusion that the suit schedule property is either not liable to be partitioned or it is incapable of being partitioned at all then a different consideration and criteria would arise.

In these set of circumstances, the petitioner herein has filed a transfer petition seeking transfer of this suit to be tried along with the partition suit.

I do not see any foreseeable objection in principle, in transferring the present suit to be tried along with the partition suit because parties are same and the suit schedule properties are one and the same in both the matters, that would also help in resolving the pending dispute amicably between the parties. Hence, the suit O.S.No.36 of 2015 on the file of the Principal Junior Civil Judge's Court, Ranga Reddy District at L.B.Nagar, be transferred to be tried along with O.S.No.1650 of 2013 on the file of the VII Additional District Judge's Court – cum – S.C/S.T. Court, Ranga Reddy District at L.B.Nagar.

Accordingly, stay granted by the learned Principal Junior Civil Judge, Ranga Reddy District at L.B.Nagar in O.S.No.36 of 2015 stands vacated and it may be tried along with O.S.No.1650 of 2013 as expeditiously as is possible, preferably within a maximum period of six (6) months from the date of receipt of a copy of this order by putting both the parties on notice.

Accordingly, the Civil Revision Petition is disposed of. No costs.

Consequently, miscellaneous petitions, if any pending shall also stand closed.

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**JUSTICE NOOTY RAMAMOHANA RAO**

29.01.2016  
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