

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.3511 of 2011

ORDER:

Defendant No.4 in O.S.No.4 of 2009 on the file of Principal District Judge, Srikakulam is the petitioner in the present revision, which challenges the order dated 25.7.2011 passed by the said Court in Memorandum GR.No.4699.

2. Heard Sri P.Venugopal, learned counsel for the petitioner and Sri E.V.V.S.Ravi Kumar, learned counsel for 1st respondent, apart from perusing the material available before the Court.

3. The 1st respondent herein instituted the present suit O.S.No.4 of 2009 for declaration of title and permanent injunction. The defendant/petitioner herein also instituted O.S.No.344 of 2008 on the file of the Court of Additional Senior Civil Judge, Srikakulam seeking permanent injunction. In O.S.No.4 of 2009, the plaintiff/1st respondent herein filed a memo dated 16.6.2011 praying for withdrawal of O.S.No.344 of 2008 from the Court of Additional Senior Civil Judge, Srikakulam and to try along with the present suit O.S.No.4 of 2009, stating that the suit schedule property and the contesting parties in both the suits are same, so also the causes of action. The learned Principal District Judge, Srikakulam by way of order dated 25.7.2011 ordered transfer of O.S.No.344 of 2008 from the Court of Additional Senior Civil Judge, Srikakulam to the Court of District Judge, Srikakulam for joint trial with O.S.No.4 of 2009. The said order passed by the learned Principal District Judge is under challenge in the present revision.

4. It is contended by the learned counsel for the petitioner that the order impugned is erroneous, contrary to law and opposed to the very spirit and object of Section 24 of Civil Procedure Code. It is the further submission of the learned counsel that the reasons assigned by the learned District Judge are unsustainable and untenable and the learned District Judge thoroughly failed

to consider the objections submitted by the petitioner.

5. On the contrary, it is submitted by the learned counsel for the respondent that there is no infirmity in the impugned order and the learned Principal District Judge is perfectly justified in ordering transfer of O.S.No.344 of 2008 as the same is done only with the object of avoiding conflict of judgments. It is further submitted that in the absence of any perversity in the impugned order passed by the learned District Judge, the questioned order is not amenable for correction of this Court under Article 226 of the Constitution of India.

6. A perusal of the order impugned in the present revision clearly discloses that the learned District Judge by duly taking into consideration the subject matter of the suits and the causes of action and also taking into consideration the provisions of Section 24 of Civil Procedure Code, passed the impugned order, ordering transfer of O.S.No.344 of 2008, obviously for the purpose of avoiding conflict of judgments. This, in the considered opinion of this Court, cannot be found fault with. It is a settled and well established principle of law that unless the order impugned suffers from patent perversity, the invocation of jurisdiction of this Court under Article 226 of the Constitution of India is impermissible. It is also pertinent to observe that in view of the order impugned, the petitioner herein would not put to any prejudice.

7. For the aforesaid reasons, the Civil Revision Petition is dismissed. As a sequel, the miscellaneous petitions, if any, stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 22.2.2016
DA

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

C.R.P.No.3511 of 2011

22.2.2016

DA