

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
C.R.P. No.4648 of 2015

and

C.R.P Nos.265, 266, 283 and 286 of 2016

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COMMON ORDER:

Heard the learned counsel for petitioner, and learned counsel for the respondents.

All these cases are being disposed of by this common order as they arise out of a common order in Transfer O.P. Nos.14, 15, 16, 17, 18 and 20 of 2013, dated 19.01.2015, passed by the learned Principal District Judge, Mahabubnagar, transferring O.S. No.28/2013 and O.S.No.71/2012, pending on his file, to be tried along with other suits, pending on the file of the learned VII Additional District Judge, Mahabubnagar, and withdrawing O.S.No.33/2013 from the Court of the learned Junior Civil Judge, Shadnagar, and directing it to be tried along with other suits by the learned VII Additional District Judge, Mahabubnagar.

The petitioner herein is defendant No.2 in O.S.No.71/2012 on the file of the learned Principal District Judge, Mahabubnagar, which was filed for specific performance of agreement of sale dated 22.03.2012 in respect of land admeasuring Ac.24.18 guntas situated in various survey numbers of Nandigama Village, Kothur Mandal, Mahabubnagar District. When O.S.No.28/2013, filed by one M.Venkat Reddy against two defendants, was pending before the learned Principal District Judge, Mahabubnagar, applications were filed by the plaintiff in O.S. No.90/2012, O.S. No.100/2012, O.S.No.88/2012, O.S.No.97/2012 and O.S. No.34/2013 on the file of the learned VII Additional District Judge, Mahabubnagar, and O.S.No.33/2013 on the file of the learned Junior Civil Judge, Shadnagar, to transfer those cases to be tried along with the pending

O.S.No.28/2013 and O.S. No.71/2012 on the file of the learned Principal District Judge, Mahabubnagar. The learned Principal District Judge divided all the suits into two parts and ultimately transferred all the suits to the Court of the learned VII Additional District Judge, Mahabubnagar, to be tried along with O.S.No.71/2012 and O.S. No.28/2013, pending on his file.

On an earlier occasion, when the plaintiff in O.S.No.28/2013 came to this Court challenging the said common order on the ground of not putting him on notice while allowing the applications for transfer, this Court disposed of C.R.P. No. 3459 of 2015 & batch, vide common order dated 01.09.2015, and directed the learned VII Additional District Judge, Mahabubnagar, to hear the plaintiff in O.S. No.28/2013 with regard to his point of view on the clubbing of his suit along with other suits and pass appropriate orders in the matter. The hearing of O.S.No.28/2013 was kept in abeyance. In the present case also, the petitioner challenged the said common order and he is defendant No.2 in O.S.No.71/2012 and defendant No.3 in O.S.No.33/2013. So far as O.S.No.33/2013 is concerned, it was a suit filed for permanent injunction and the suit schedule property is situated in Survey Nos.135 to 140 of Edulapally Village, Kothur Mandal, Mahabubnagar District. The said property is connected to the suit schedule property in O.S. No.90/2012. Though the learned counsel for petitioner submits that the relief sought in O.S.No.33/2013 is for permanent injunction and the relief sought in O.S. No.90/2012 is for specific performance, there is nothing wrong in the learned Principal District Judge, Mahabubnagar, passing the order withdrawing the said O.S. No.33/2013 from the Court of the learned Junior Civil Judge, Shadnagar, to be tried along with O.S. No.90/2012, which is filed for specific performance of agreement of sale in respect of the self-same property. Hence, I do not see any ground to interfere with the common order passed so far as

withdrawing O.S. No.33/2013 is concerned, and accordingly, C.R.P. No.4648/2015 is dismissed.

However, with regard to transfer of O.S. No.71/2012 to the Court of the learned VII Additional District Judge, Mahabubnagar, for being tried along with other suits, pending on the file of the aforesaid learned VII Additional District Judge, learned counsel for the petitioner submits that the suit schedule property in O.S. No.71/2012 is different from the suit schedule property covered by O.S.No.33/2013, O.S.No.90/2012 and O.S.No.28/2013. He further submits that when the property is different, the learned District Judge ought not to have clubbed O.S. No.71/2012 to be tried along with O.S. No.28/2013. Now all the suits are transferred to the Court of the learned VII Additional District Judge, Mahabubnagar, and this Court on an earlier occasion directed the learned VII Additional District Judge, Mahabubnagar, to hear the plaintiff in O.S. No.28/2013 with regard to tenability of clubbing the said suit along with other suits. The suit schedule property in O.S.No.28/2013 is situated in Edulapally Village, whereas the suit schedule property in O.S. No.71/2012 is situated in Nandigama Village, Kothur Mandal, Mahabubnagar District. The plea of present petitioner, who is defendant No.2 in O.S.No.71/2012, also shall be considered by the learned VII Additional District Judge, Mahabubnagar, in order to see whether all the suits shall be clubbed together or to be tried separately by him as the properties in O.S. No.33/2013, O.S.No.90/2012 and O.S.No.28/2013 relate to the land in Edulapally Village, whereas the suit schedule property in respect of other suits relates to the lands in Nandigama Village, Kothur Mandal, Mahabubnagar District. In view of the same, C.R.P Nos.265, 266, 283 and 286 of 2016 are allowed, and the petitioner shall be heard by the learned VII Additional District Judge, Mahabubnagar, with regard to tenability of the clubbing of O.S.No.71/2012 with suits in O.S.

No.33/2013, O.S.No.90/2012 and O.S. No.28/2013. The aforesaid learned VII Additional District Judge shall consider the arguments of petitioner herein along with petitioner in C.R.P. No.3459/2015, which was disposed of on 01.09.2015. No order as to costs.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

A.RAMALINGESWARA RAO, J

18.01.2016

MVA