

HON'BLE SRI JUSTICE G. SHYAM PRASAD

CIVIL REVISION PETITION Nos.3899, 3900 AND 3943 OF 2016

COMMON ORDER:

1. These three Civil Revision Petitions, under Article 227 of the Constitution of India, arose out of the common order, dated 16.06.2016, in Tr.O.P. Nos.67, 68 and 165 of 2016, on the file of the Court of Principal District Judge, Vizianagaram (For short, 'the lower Court'); wherein the lower Court allowed the Tr.O.P. Nos.67 and 68 of 2016 transferring O.S. Nos.329 and 331 of 2007, pending on the file of the Senior Civil Judge's Court, Vizianagaram, to the file of the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram and dismissed the Tr.O.P. No.165 of 2016 seeking transfer of O.S. No.330 of 2007, pending on the file of the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram to the file of the Senior Civil Judge's Court, Vizianagaram.

2. The facts leading to filing of these Petitions, in brief, are as follows: One Randhi China Sanyasi Naidu @ Mill Naidu and Smt. Randhi Suramma filed O.S. No.331 of 2007, against Boddu Sanyasi Naidu and others, seeking declaration that they are the absolute owners of the plaint schedule property along with a consequential relief of permanent injunction in respect of the land in Survey No.141 of Velagada village, which was fully described there in the plaint schedule. One Randhi Suramma filed another suit in O.S. No.329 of 2007, against Boddu Sanyasi Naidu and others, for declaration and permanent injunction in respect of land in Survey No.144 of Kotha Velagada village. Randhi Sanyasi Naidu and Randhi Suramma filed a suit in O.S. No.330 of 2007 against Randhi Sannibabu and others for declaration and a consequential permanent injunction. All these suits were, originally, filed on the Senior Civil Judge's Court, Vizianagaram; subsequently, on administrative

grounds, and due to the heavy pendency of cases in the Court of Senior Civil Judge, Vizianagaram, some suits pending therein were transferred to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram. In that process, O.S. No.330 of 2007 was transferred to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram and O.S. Nos.329 and 331 of 2007 were retained in the Senior Civil Judge's Court, Vizianagaram.

3. Aggrieved by which, legal heirs of Boddu Sanyasi Naidu filed Tr.O.P. Nos.67 and 68 of 2016 and sought for transfer of O.S. Nos.329 and 331 of 2007, pending on the file of the Senior Civil Judge's Court, Vizianagaram to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram to be tried along with O.S. No.330 of 2007; whereas, the legal heirs of Randhi China Sanyasi Naidu filed Tr.O.P. No.165 of 2016 and sought for transfer of O.S. No.330 of 2007, pending on the file of the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram to the Senior Civil Judge's Court, Vizianagaram to be tried along with O.S. Nos.329 and 330 of 2007.

4. The lower Court, upon hearing the rival claims and considering the material available on record, allowed the Tr.O.P. Nos.67 and 68 of 2016 transferring the suits in O.S. Nos.329 and 331 of 2007, pending on the file of the Senior Civil Judge's Court, Vizianagaram to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram, consequently dismissed the Tr.O.P. No.165 of 2016; aggrieved by which, these Civil Revision Petitions are preferred.

5. Sri G. Gopala Krishna, learned counsel for the petitioners, mainly submits that the trial Court, without taking into consideration the inconvenience being caused to the parties, for traveling from

Vizianagaram to Parvathipuram, which is at a distance of more than 70 K.Ms, and without assigning any reasons, erroneously transferred the suits in O.S. Nos.329 and 331 of 2007, pending on the file of the Senior Civil Judge's Court, Vizianagaram to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram. Hence, prayed to allow these Petitions.

6. Sri J. Bhaskara Rao, learned counsel for Respondent Nos.2 to 8 and, Sri K. Bhaskara Rao, learned counsel for Respondent No.9, contends that the trial Court has rightly transferred the suits in O.S. Nos.329 and 331 of 2007, pending on the file of the Senior Civil Judge's Court, Vizianagaram to the Senior Civil Judge's Court, Parvathipuram, Camp at Vizianagaram, on administrative grounds, keeping in mind the heavy pendency of cases at the formers Court, which are 2178, when compared to the pendency of cases at the latter's Court *i.e.*, 84. It is further contended that the parties cannot choose the forums and only on the administrative convenience for quick disposal, the cases were transferred by the lower Court. Hence, there is no illegality or irregularity in the impugned common order passed by the lower Court and, hence, prayed to dismiss these Petitions.

7. At this stage, Sri G. Gopala Krishna, learned counsel for the petitioners, fairly submits that it would be suffice if the learned Senior Civil Judge, Parvathipuram, Camp at Vizianagaram, is directed to try all the three suits in O.S. Nos.329, 330 and 331 of 2007 only at Vizianagaram instead of at Parvathipuram.

8. Originally, the cases were transferred by the lower Court, on administrative grounds, on the Transfer Applications filed by the parties. The order of the lower Court cannot be challenged, unless it causes any

prejudice to the parties. In view of the grounds urged by the petitioners in the instant Revision Petitions, I find no serious prejudice being caused to any of the parties. However, the main ground, urged by one of the parties, is that convenience of the parties. As a matter of fact, the convenience of the parties, no doubt, can be considered, but it cannot be a sole ground for consideration in Transfer Applications. The order passed by the lower Court clearly reveals that, on administrative grounds, he has transferred the cases considering all other aspects. The impugned order passed by the lower Court does not suffer from any apparent error or illegality. Therefore, I do not see any valid reason to interfere with the order of lower Court.

9. In ***Smt. Madanamma Vs. The Singareni Collieries Company Limited, Rep. by its Chairman and Managing Director and others***¹, this Court held as follows:

“4. It should be remembered that the suit is for a declaration to be the successor to late Odelu. When once a suit is filed for declaration as to be the successor, that suit could be filed by the party wherever he/she resides.

5.On the basis of the arguments, it looks to me that the petitioner probably is a resident of Adilabad District and feels convenient to contest the matter at Adilabad District. Parties' convenience alone cannot be looked into in deciding the jurisdiction of the Court. What necessarily to be examined is the nature of relief sought in the suit.....”

10. In view of the representation made by learned counsel for the petitioners, and in view of the decision of this Court in ***Madanamma***¹, the ends of justice would be met, if the learned Senior Civil Judge, Parvathipuram, Camp at Vizianagaram is directed to try all the three suits

¹ 1995 (3) ALD 437

in O.S. Nos.329, 330 and 331 of 2007 only at Vizianagaram Camp Court instead of at Parvathipuram.

11. Accordingly, with the above observation, all these three Civil Revision Petitions are disposed of.

12. In consequence, Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed. No order as to costs.

G. SHYAM PRASAD, J

Date: 17-09-2016.
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HON'BLE SRI JUSTICE G. SHYAM PRASAD

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Date.17-09-2016

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