

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3086 of 2015

Date: 05-01-2016

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Between:

P.V. Narsing Rao

.. Petitioner

AND

B. Laxmi Reddy and another

.. Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3086 of 2015

ORDER:

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The petitioner is the plaintiff in O.S.No.225 of 2011 on the file of Additional Junior Civil Judge at Malkajgiri, Ranga Reddy District. The respondents are defendants in the said suit. The said suit was filed for specific performance of an agreement of sale dated 08-09-1986 in respect of plots bearing No.26 and 27 in Survey Nos.64 to 67, Alwal village, Malkajgiri Revenue Mandal, Ranga Reddy District and also for cancellation of Gift Deed dated 12-07-2011 executed by the 1st defendant in favour of the 2nd defendant in respect of above plots of land.

In the said suit, the defendants filed I.A.No.617 of 2015 for clubbing various other suits filed by the petitioner herein as plaintiff for joint trial. The petitioner filed a memo stating that the agreements of sale are different and the defendants are not common in all suits. The causes of action in different suits are different and distinct. The pleadings are also different. However,

the petitioner herein agreed for simultaneous trial of all the suits. The trial Court ordered for joint trial on the ground that the plaintiff is common in respect of all the suits. It was also observed that all the vendors passed a consolidated receipt dated 23-05-1994 and the pleadings of the plaintiffs are common. Though the defendants are different, they are claiming their right from a common ancestor. The Court opined that in order to avoid inconsistent versions and evidence and to save the time and expenses, the suits can be clubbed for joint trial and accordingly, passed an order 07-07-2015, challenging which the present Civil Revision Petition is filed.

Learned counsel for the petitioner submits that the 2nd respondent herein earlier filed I.A.No.447 of 2012 in O.S.No.228 of 2011 seeking his impleadment as one of the defendants in the said suit and the said application was dismissed on 31-10-2014. The said order has become final. After dismissal of the said application, the present application is filed by the respondents herein.

Learned counsel for the respondents submits that the petitioner herein as plaintiff filed six suits and all the suits are pending before the same Court. The ancestor of the suit schedule property is common. It is also his submission that the petitioner is claiming under a common receipt passed by the vendors and hence, in the interest of justice and if the joint trial is conducted, there would not be any conflict of decisions.

The present application in I.A.No.617 of 2015 was filed by the respondents in O.S.No.225 of 2011, who are defendants in O.S.No.231 of 2011 but not in other suits. There are different

defendants in other four suits. In some other suits, the plaintiff sought the relief of specific performance of an agreement of sale and in some suits, he sought not only for specific performance of agreements of sale, but also for cancellation of gift deeds. Learned counsel for the respondents also fairly admits that the defendants in some suits took a contradictory stand and the stand of the defendants is not common. The Court below also should have seen that all the parties in all the suits were not put on notice before ordering joint trial. Merely because the plaintiff is common the joint trial cannot be ordered against his wish. However, the plaintiff himself agreed in the memo filed in the present application for a simultaneous trial of the suits. Since all the suits are pending before the same Court and if simultaneous trial takes place, no prejudice would be caused to the interest of any of the parties. It is also submitted by the learned counsel for the petitioner that separate issues are framed in respective suits and the suits are coming out for trial.

In the circumstances, the order passed in I.A.No.617 of 2015 in O.S.No.225 of 2011 dated 07-07-2015 is set aside and the Court below is directed to conduct simultaneous trial of all the suits and delivered judgments separately. The Civil Revision Petition is allowed accordingly. No costs. As a sequel thereto, miscellaneous petitions if any pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 05-01-2016

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