

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.2886 of 2015

ORDER:

The unsuccessful petitioners/plaintiffs in O.S.No.871 of 2003 on the file of the learned V Additional Junior Civil Judge, Warangal brought this Civil Revision Petition assailing the orders dated 02.06.2015 of the said learned Judge passed in I.A.No.800 of 2015 filed under Section 151 of the Code of Civil Procedure, 1908 for consolidating the said suit and another suit in O.S.No.1793 of 2005 on the file of the very same Court for disposal of both the suits by a common judgment after conducting joint trial in the interests of justice.

2. I have heard the submissions of the learned counsel for the revision petitioners/plaintiffs and the learned counsel for the 1st respondent. The said 1st respondent is the defendant in O.S.No.871 of 2003. I have perused the material record.

3. The relevant facts as borne out by the material record and as per the submissions made before this Court, in brief, are as follows:-

The plaintiffs brought the suit O.S.No.871 of 2003 against the 1st respondent/1st defendant by name Chakinala Amarnadh for perpetual injunction in respect of 600 square yards of land in survey number 59 of Urs Shivar of Warangal District, morefully described in the schedule annexed to the plaint in the said suit O.S.No.871 of 2003. The said defendant is resisting the said suit. While so, during the pendency of the said suit, the plaintiff sold a part of the suit schedule property to a third party, namely, Palakurthi Nagaraju. On that, the 1st defendant Amarnath in the aforementioned suit had filed the other suit in O.S.No.1793 of 2005 against the said third party Palakurthi Nagaraju for perpetual injunction in respect of the property that was sold by the plaintiffs in the former suit, excluding the portion for road

widening programme. The said purchaser from the plaintiffs in the former suit, i.e., Palakurti Nagaraju, is resisting the suit O.S.No.1793 of 2005 filed by the 1st defendant in the former suit. While the two suits are at the stage of trial, the present revision petitioners, who are the plaintiffs in the former suit, filed the aforementioned application for consolidating both the suits for disposal of both the suits by a common judgment after conducting joint trial. The trial Court, having considered the objections in the counter of the 1st defendant Amarnath to the effect that the parties are different and the properties covered by the said suit are also different and that the plaintiffs in the former suit are not parties to the later suit, dismissed the said application. Therefore, the aggrieved plaintiffs in the said suit are before this Court as petitioners.

4. The learned counsel for both the sides had reiterated the facts which are not in dispute. The learned counsel for the revision petitioners would submit that if both the suits are not consolidated/clubbed and are to be disposed of independently, there would be a likelihood of rendering conflicting judgments and that therefore, it is just and fair to club both the suits and such a course would also avoid repetition of the same evidence in both the suits.

5. On the other hand, the learned counsel for the 1st respondent herein/1st defendant-Amarnath, while supporting the order impugned, would submit that the trial Court was correct in its observation that the parties and properties are different and that therefore, the order impugned does not call for interference.

6. I have bestowed my attention to the facts and given earnest consideration to the submissions.

7. It is not in dispute that the subject matter of the later suit in O.S.No.1793 of 2005 is a part of the suit schedule property in the former suit in O.S.No.871 of 2003. In fact, the defendant in the later suit is the purchaser of a portion of the property from the plaintiffs in the former suit. Though the properties are

different, the fact that the subject matter of the later suit is a part of the schedule of the property in the former suit is not in dispute. Nevertheless the parties are different. The defendant in the former suit is the plaintiff in the later suit. He had filed his later suit against the purchaser, who had purchased a part of the subject property in the former suit, from the plaintiffs in the former suit. He is a purchaser of the property during the pendency of the *lis*. The plaintiffs in the former suit are not parties to the later suit. And the defendant in the later suit is not a party to the former suit. The causes of action are different.

8. However, having regard to the submissions and the facts and circumstances of the case, this Court is satisfied that this Civil Revision Petition can be disposed of with certain directions.

9. In the result, the Civil Revision Petition is disposed of, and, instead of directing the suits to be clubbed/consolidated, the trial Court is directed to conduct separate, but, simultaneous trials in both the suits and dispose of the two suits on merits separately by rendering separate judgments in both the suits on the same day, in accordance with the law.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

M.Seetharama Murthi, J

26th February, 2016
Bvv