

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 2927 of 2015

Order:

This Civil Revision Petition is filed challenging the order in Transfer OP No.217 of 2014, dated 02.03.2015, passed by the learned Principal District Judge, West Godavari District, Eluru.

2. The petitioner herein is the daughter and the first respondent herein is the mother. The first respondent filed OS No.157 of 2011 on the file of the Principal Senior Civil Judge, Eluru, seeking declaration of title in respect of four gold bangles valued at Rs.1,50,400/-, which are in her custody. After two years, the petitioner herein filed OS No.33 of 2013 on the file of VIII Additional District Judge, West Godavari District, Eluru, seeking partition and separate possession of her 1/9th share in the plaint A to C schedule properties and 1/5th share in the plaint D schedule property. The plaint D schedule property in OS No.33 of 2013 is the same property covered by OS No.157 of 2011.

3. While so, the petitioner herein filed Transfer OP No.217 of 2014 seeking to transfer OS No.157 of 2011 from the file of Principal Senior Civil Judge, Eluru, to the Court of VIII Additional District Judge, West Godavari, Eluru, to try the same along with OS No.33 of 2013. The said application of the petitioner was dismissed by the learned District Judge solely on the ground that the first respondent herein was aged about 70 years and the trial in the said suit before the learned Additional Senior Civil Judge, Eluru, was already commenced. Aggrieved by the same, the present CRP is filed.

4. It is submitted by the learned counsel for both the parties that PW.1 was examined in OS No.157 of 2011, whereas in OS No.33 of 2013 issues have to be framed.

5. Be that as it may, as the parties are same and OS No.33 of 2013 is a comprehensive suit seeking partition, where the rights of the parties have to be decided, this Court feels that OS No.157 of 2011 pending on the file of the Principal Senior Civil Judge, Eluru, shall be transferred to the Court of VIII Additional District Judge, West Godavari, Eluru, to be tried along with OS No.33 of 2013. The evidence already recorded in OS No.157 of 2011 by PW.1 shall be eschewed and the fifth defendant in OS No.33 of 2013 who is the plaintiff in OS No.157 of 2011 shall be given an opportunity to lead evidence afresh.

6. Accordingly, the Civil Revision Petition is allowed. However, in the circumstances, no costs.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.
Date: 12.02.2016
Nsr

RAMALINGESWARA RAO, J.