

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4646 of 2016

ORDER:

Heard both sides.

2. Perused the impugned ground of revision, the order of the lower Court and the affidavit petition in I.A.No.216 of 2016, seeking joint trial saying there is the memo filed on 17.06.2016, pursuant to the earlier order dated 18.07.2011 in I.A.No.916 of 2011 in O.S.No.107 of 2014 (old number-O.S.No.91 of 2007), joint trial is not ordered. In fact, from paragraph No.7 of the affidavit petition covered by the impugned order of the lower Court, it is stated by the revision petitioner that the plaintiff in O.S.No.107 of 2014, which is a subsequent suit for declaration (old number-O.S.No.91 of 2007) filed his chief examination affidavit and he was cross-examined in part or full, as the case may be, and the other suit in O.S.No.140 of 2009 (old number-O.S.No.53 of 2006), which is filed for specific performance, was also posted for cross-examination of PW.1. From the chief affidavit of PW.1 filed for cross-examination, it is not even stated PW.1 evidence in O.S.No.107 of 2014 filed covering the plaint averments in support of the suit claim in O.S.No.107 of 2014 and his defence as a co-defendant to the suit in O.S.No.140 of 2009; in the absence of which when filed separate chief

affidavit confining to the suit in O.S.No.107 of 2014, this may not be the stage to permit joint trial.

3. Having regard to the above, instead of keeping the Civil Revision Petition pending by staying the proceedings in O.S.No.107 of 2014, the Civil Revision Petition itself is disposed of by directing the lower Court that in the event of PW.1 in O.S.No.107 of 2014 filed his chief examination affidavit covering not only the suit claim in O.S.No.107 of 2014 but also his defence in O.S.No.140 of 2009, then conduct joint trial, including the chief affidavit of PW.1 in other suit i.e., O.S.No.140 of 2009, by clubbing the suit in O.S.No.140 of 2009 with O.S.No.107 of 2014. If it is not covered the evidence on affidavit of PW.1 in O.S.No.107 of 2014 and also the defence in O.S.No.140 of 2009, the trial Court shall proceed simultaneously both the suits for disposal finally at a time to avoid conflict of judgments by simultaneous trial and disposal.

Accordingly, the Civil Revision Petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

21.12.2017
MVA