

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.688 of 2016

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COMMON ORDER:

Tr.C.M.P.No.688 of 2016 is filed by the 2nd defendant in O.S.No.39 of 2016 on the file of the Court of XV Additional District Judge, Nuzvid, Krishna District, requesting to withdraw the said suit from the file of the said Court and transfer the same to the Court of the learned VII Additional District Judge, Family Court, West Godavari District, Eluru, to be tried along with O.S.No.107 of 2015 already pending on the file of the later Court.

The very same petitioner is the 3rd plaintiff in O.S.No.80 of 2016 on the file of the Court of the Principal Junior Civil Judge, Nuzvid, Krishna District. Tr.C.M.P.No.689 of 2016 is filed by him requesting to withdraw the afore-stated suit-O.S.No.80 of 2016 and transfer the same to the file of the Court of the learned VII Additional District Judge, Family Court, West Godavari, Eluru, where O.S.No.107 of 2015 is already pending on the file of the later Court.

2. I have heard the submissions of *Sri K.Chidambaram*, learned counsel appearing for the petitioners in both the Transfer CMPs, and of *Sri C.Damodar Reddy*, learned counsel appearing for the respondents 1 and 2 in Tr.C.M.P.No.689 of 2016 and also for the 1st respondent in Tr.C.M.P.No.688 of 2016. I have perused the material record.

3. Learned counsel appearing for the petitioner submits as follows:

3.1 One Gogineni Joji Babu, the 1st respondent in Tr.C.M.P.No.688 of 2016, filed O.S.No.39 of 2016 against the petitioner and respondents 2 to 5 in Tr.C.M.P.No.688 of 2016, on the file of the XV Additional District Judge, Krishna District, at Nuzvid, in respect of property in an extent of Ac.0.075 cents (363 square yards) out of Ac.0.15 cents covered by R.S.No.77 situated in Hanuman Junction, Bapulapadu Mandal, Krishna District, seeking the following reliefs:

- a) declaring the plaintiff as absolute owner of the plaint schedule property;
- b) directing the defendants 1 to 4 to vacate and deliver possession of the plaint schedule property;
- c) granting a sum of Rs.10,20,000/- by way of damages for use and occupation of the plaint schedule property from 01.07.2013 to 31.05.2016.
- d) directing the defendants to continue to pay the damages for use and occupation till the date of delivery of possession of the plaint schedule property @ Rs.30,000/- per month;
- e) directing the defendant to pay the costs;
- f) granting such other reliefs which the Hon'ble Court deems just and reasonable in the circumstances of the case."

3.2 The petitioner, the 2nd respondent and one Vijaya Jhansi Rani, the wife of the 2nd respondent in Tr.C.M.P.No.688 of 2016, filed O.S.No.80 of 2016 against the 1st respondent in Tr.C.M.P.No.688 of 2016 and his wife, on the file of the Junior Civil Judge Court, Nuzvid, in respect of property

in an extent of Ac.0.15 cents in R.S.No.77, Bapulapadu village, Kanumolu

Sub Registry, Krishna District, seeking the following reliefs:

- a) To grant permanent injunction restraining the defendants, their men and followers from ever interfering with the peaceful possession and enjoyment of the plaint schedule property or any part thereof except the one room allotted to the 1st defendant in any manner whatsoever;
- b) to grant costs of the suit;
- c) grant such other relief or reliefs which this Hon'ble Court may deem fit and just under the circumstances of the case."

3.3 The petitioner in Tr.C.M.P.no.688 of 2016 filed O.S.No.107 of 2015 on the file of the Principal District Judge, West Godavari at Eluru, against the 1st respondent herein and two others, on the basis of a registered Will, dated 16.12.1995, in respect of the property in R.S.No.148/1, 148/2, 149/2 & 152/2 in an extent of Ac.7.00 cents of palm-oil garden situated in Tallamudi village, Pedapadu Mandal, West Godavari District, seeking the following reliefs:

- a) declaring that the plaintiff is having right of vested remainder as per registered Will bearing No.36/95 dated 16.12.1995 over the plaint schedule property;
- b) grant consequential relief of permanent injunction restraining the defendants 1 & 2 from alienating the plaint schedule property;
- c) declaring the registered sale deed bearing No.3810/2014 of Vatluru SRO, dated 13-12-2014 as null and void;

d) grant such other relief or reliefs as the Hon'ble Court may deem fit and necessary in the circumstances of the case."

3.4 Learned counsel appearing for the petitioner would further submit as follows:

All the three suits are more or less between the same parties. The pleadings of the respective parties in all the three suits are more or less common and that the issues that are to be eventually decided in all the three suits are also interlinked. The finding on the issues in one suit will have a bearing on the findings in the other suits. In the *lis*, the truth and validity of the registered Will, dated 16.12.1995, has to be adjudicated. Therefore, if all the three suits are brought to the file of one superior Court for trial and disposal, either together or simultaneously, such a course would help the parties in saving their time and money and would also obviate the necessity of adducing same evidence separately in all the three suits and would further help in avoiding conflicting judgments.

4. Learned counsel appearing for the contesting respondents submits that in the peculiar facts and circumstances, the respondents have no objection for transfer of the suits to the file of one Court, but, the suits may be brought to a Court at Nuzvid. However, the learned counsel for the petitioner in these two Transfer CMPs would submit that most of the parties are residing at Vijayawada and Hyderabad, and therefore, if the suits are brought to the Court in the District Headquarters, it would be convenient to the parties.

5. I have gone through the material record. I have given earnest consideration to the facts and submissions.

6. O.S.No.107 of 2015 is already pending on the file of the Court of the learned VII Additional District Judge-cum-Judge, Family Court, West Godavari, at Eluru. Out of the other two suits, O.S.No.80 of 2016 is pending on the file of the Court of the learned Junior Civil Judge, Nuzvid; and O.S.No.39 of 2016 is pending on the file of the Court of the learned XV Additional District Judge, Nuzvid, Krishna District. Having given detailed consideration, this Court is of the view that if all the three suits are brought to the Court at the District Headquarters, it would be more appropriate in the facts and circumstances of the case.

7. In the result, both the Transfer Civil Miscellaneous Petitions are allowed and the suits in O.S.No.80 of 2016 pending on the file of the Court of the Junior Civil Judge, Nuzvidu, and, O.S.No.39 of 2016 pending on the file of the Court of the XV Additional District Judge, Krishna District, at Nuzvidu, are withdrawn from the files of the said respective Courts and are transferred to the file of the Court of the learned VII Additional District Judge (Family Court), West Godavari at Eluru, to be tried along with or simultaneously with O.S.No.107 of 2015, which is already pending on its file. The Transferor Courts are directed to transmit the duly indexed records to the Transferee Court as expeditiously as possible.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

18th September, 2017
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