

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

Civil Revision Petition No.132 of 2017

ORDER:

Vide the present petition, petitioners seek direction, thereby, setting aside the order, dated 27-09-2016 passed by the Principal District Judge, Guntur in T.O.P. No.131 of 2016 and consequently, to transfer the O.S.No.248 of 2013 on the file of the I Additional District Judge, Guntur to the II Additional District Judge, Guntur for trying it along with O.S.No.184 of 2013 on its file.

For the aforesaid purpose, petitioners filed T.O.P. mentioned above and the same was dismissed on the ground that petitioners did not show defendant Nos. 2 to 23 in O.S.No.184 of 2013 and no order effecting the rights of the party can be passed by a Court of law without issue of notice to those parties and hearing them. The Court below further opined that the basic principle of jurisprudence i.e., *audi alteram partem* cannot be violated, therefore, the petition is not maintainable on the said ground alone. Further, petitioners failed to establish that there exists such commonality in the issues.

It is admitted case that the respondents-plaintiffs filed two suits vide O.S.No.184 of 2013 and O.S.No.248 of 2013 for partition of property, originally Sy. No.185/3 and as per resurvey Sy.No.185/3B (numerical 185/3 and alphabet B) to an extent of 4020 square yards of

vacant site and property, originally Sy.No.185/5 and as per resurvey Sy.No.185/5C and 185/5D (numerical 185/5 and alphabets C and D) to an extent of 3168 square yards of vacant site. It is admitted fact that one property stands in the name of Kondaiah being ancestral one and the other property is originally availed by Venkatamma, mother of the said Kondaiah, more over, both the properties are different properties, therefore, there is no purpose to club both the matters for trial. In addition to above, the petitioner did not implead defendant Nos. 2 to 23 in T.O.P.No.131 of 2016.

In view of the facts recorded above, I find no illegality in the impugned order passed by the Court below and the same is hereby confirmed.

The Civil Revision Petition is accordingly dismissed.

No order as to costs.

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

SURESH KUMAR KAIT, J.

Date: 20-01-2017
skmr