

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.5275 of 2017

ORDER:

Plaintiff, in O.S.No.745 of 2003 on the file of the Principal Junior Civil Judge, Kurnool, is the petitioner in the present revision, filed under Article 227 of the Constitution of India.

Heard Sri B.Narasimha Sarma, learned counsel for the plaintiff-petitioner herein, and Sri Shafath Ahmed Khan, learned counsel for the first respondent, apart from perusing the material available before the Court.

This revision calls in question the order, dated 20.06.2017, passed by the Principal Junior Civil Judge, Kurnool in I.A.No.3004 of 2014 in O.S.No.745 of 2003. Petitioner herein instituted the above mentioned suit against the respondents herein, seeking permanent injunction to restrain the defendants-respondents herein from interfering with the peaceful possession and enjoyment over the plaint schedule property. In the said suit the second defendant-first respondent herein filed the present application-I.A.No.3004 of 2014, under Section 151 CPC, requesting the Court below to hold joint trial of the suit along with O.S.No.1659 of 2006 and O.S.No.57 of 2011. The plaintiff-petitioner herein filed a counter opposing the said request. The learned Principal

Junior Civil Judge, by way of an order, dated 20.06.2017, allowed the said application. Hence, the present revision.

It is contended by the learned counsel for the plaintiff-petitioner herein that the order impugned is erroneous and contrary to law and that the learned Principal Junior Civil Judge grossly erred in ordering joint trial, as in the present suit the evidence of P.Ws.1 and 2 came to an end. It is the further submission of the learned counsel that, as the suits are pending before the same Court, the Court below, instead of ordering joint trial, should have tried the cases simultaneously.

On the contrary, it is contended by the learned counsel for the second defendant-first respondent herein that there is no error nor there exists any infirmity in the impugned order, as such, the questioned order is not amenable for any judicial review, under Article 227 of the Constitution of India. It is the further submission of the learned counsel that, since the property is one and the same, in all the three suits, the Court below is perfectly justified in ordering joint trial.

Admittedly, all the three suits are pending before the same Court and the property involved is also the same. The objection raised by the plaintiff, as evident from the impugned order, is that the stages of the three suits are different. It is also required to be noted that the Court below observed in the

impugned order that the first respondent herein was impleaded as a party and it is necessary to give opportunity to him.

The Court below also recorded a categorical reason that the subject-matter is the same and the parties are also the same and it is necessary to give an opportunity to the petitioner-first respondent herein to cross-examine all the witnesses and that no hardship would be caused to the parties. The learned Judge also opined that, in order to avoid different verdicts, it would be safe to club all the three suits for joint trial for adjudication of the rights of the parties.

In the considered opinion of this Court, the said reasons assigned by the learned Judge are reasonable and convincing. When the parties are same, the property is the same and the subject-matter of the property is also the same, as correctly held by the Court below, it is always safe to conduct joint trial to avert the conflict of judgments. It is settled principle of law that, unless the order impugned suffers from jurisdictional error and patent perversity, the invocation of the jurisdiction of this Court, under Article 227 of the Constitution of India, is impermissible. This Court does not find any such contingencies in the impugned order. Therefore, this Court is not inclined to meddle with the well-articulated order passed by the Principal Junior Civil Judge, Kurnool.

Accordingly, the Civil Revision Petition is dismissed.
Miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

A.V.SESHA SAI, J

20th December, 2017
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