

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5109 of 2017

ORDER:

This Civil Revision Petition is filed challenging the order dt.10.07.2017 in I.A.No.1548 of 2016 in O.S.No.28 of 2013 of the IX Additional District Judge, West Godavari at Kovvur.

2. Under the said order, the Court below had clubbed O.S.No.28 of 2013 filed by the petitioner herein with O.S.No.53 of 2016 filed by respondents 1 and 2.

3. While O.S.No.28 of 2013 is a suit for declaration of title filed by the petitioner herein against the respondent, O.S.No.53 of 2016 is the suit for partition filed by respondents 1 and 2 against the petitioner in respect of the same property.

4. A memo was filed by the counsel for respondents in O.S.No.28 of 2013 pointing out that both the suits are pending on the file of the same Court, that the parties and subject matter of the suits is one and the same, that there is a possibility of passing two separate contradicting judgments, and prayed that both the suits be tried simultaneously.

5. This was opposed by the petitioner alleging that O.S.No.53 of 2016 is recently numbered, while O.S.No.28 of 2013 was already partly heard and the evidence of the

petitioner had almost come to an end and at this stage, they cannot be clubbed.

6. The Court below rejected the said objection and held that since the parties and properties as well as the evidence is likely to be common in both the suits, it is desirable that the suits be clubbed and the recording of the evidence in O.S.No.28 of 2013 be continued, for both the suits.

7. Though counsel for petitioner now seeks to contend that by the date on which the order is passed, five witnesses on his side had already been examined and that the respondents may seek summoning of the said witnesses again for further cross-examination, I am of the opinion that no prejudice has been caused to the petitioner since the evidence already adduced by him has not been eschewed by the Court. On the contrary, the Court has specifically recorded that evidence would continue to be recorded in O.S.No.28 of 2013, since there is a distinct possibility of contradictory judgments being delivered in the suits creating complications for the petitioner himself.

8. The Court below is thus right in clubbing the suits and directing continuance of recording of evidence in O.S.No.28 of 2013 for both the suits.

9. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

10. Accordingly, this Civil Revision Petition is dismissed.
No costs.

11. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

06th October, 2017.
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