

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.4750 OF 2016

ORDER:

The present Civil Revision Petition is filed assailing the order, dated 05.11.2015, passed in Tr.O.P.No.2215 of 2014 on the file of the Chief Judge, City Civil Courts at Hyderabad, whereby and whereunder, the learned Chief Judge, exercising power under Section 24 of the Code of Civil Procedure, acceded to the relief of the petitioner therein ordering transfer of O.S.No.539 of 2014 pending on the file of the VII Senior Civil Judge, City Civil Court, Hyderabad, to the file of the III Additional Chief Judge, City Civil Court, Hyderabad, to be tried along with O.S.No.770 of 2013.

The main contention of Sri E.V.V.S. Ravi Kumar, learned counsel for the revision petitioner, is that the subject matter in both the suits is not identical, as one suit i.e., O.S.No.539 of 2014 is filed by the wife, who is respondent No.1 in the transfer O.P., for cancellation of gift settlement deed executed by her in favour of defendant No.2 on the ground that it was only a nominal deed and also to cancel the consequent sale deed referred to therein, whereas the other suit i.e., O.S.No.770 of 2013 was filed by the husband, who is the petitioner in the transfer O.P., for declaration of his title and consequential perpetual injunction restraining his wife from interfering with his peaceful possession and enjoyment of the suit schedule property.

It is true, the description of the schedule property shown in both the suits is not identical, but there has been reference to the so called gift

deed. Therefore, the Courts, which entertain the suits, have to refer to the gift deed even in one of the suit mainly touching the relief of cancellation of the said gift deed and in the other suit incidentally. In such an event, ordering both the cases to be tried by one and the same court cannot be faulted, more particularly, when the *lis* is between the plaintiff and defendant No.1 mainly. Therefore, there is no merit in the present Civil Revision Petition.

Accordingly, the Civil Revision Petition is dismissed. It is, however, open to the learned III Additional Chief Judge, City Civil Court, Hyderabad, to examine whether both the suits have to be taken up jointly with one of the suits as leading suit so as to record the evidence therein and to treat the evidence therein as the evidence in the other suit overlooking the observation of the learned Chief Judge that the transfer of O.S.No.539 of 2014 is for the purpose of clubbing it with O.S.No.770 of 2013.

As a sequel, miscellaneous applications, if any pending in the instant revision petition, stand closed. No order as to costs.

A. SHANKAR NARAYANA, J

31st August, 2017

v v