

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

**CIVIL REVISION PETITION Nos.544, 546, 547 AND
802 OF 2016**

COMMON ORDER:

Nooka Dhanalaxmi, who is the revision petitioner in three revisions viz., CRP Nos.544, 546 and 547 of 2017 and her daughter Kattamuri Srivalli is the petitioner in CRP.No.802 of 2016. Said Srivalli was sole plaintiff in O.S.No.144 of 2015 on the file of the Additional District Judge-cum-Judge, Family Court, Khammam. There were ten defendants therein. The said Dhanalaxmi was not among the ten defendants.

2. So far as said Nooka Dhanalaxmi concerned, she was D6 in O.S.No.39 of 2011 and O.S.No.46 of 2011 and D4 in O.S.No.180 of 2013. Those three suits were filed by Y.Prabhakar Reddy, A.Ramakrishna Reddy and Rafatunnisa (in O.S.No.39 of 2011), V.Vara Prasad and V.Govardhan Giridhar (in O.S.No.180 of 2013) and V.Ravi Bharath Reddy, sole plaintiff in O.S.No.46 of 2011. Those suits are also pending on the self-same court supra.

3. Having regard to the above, said Dhanalaxmi and her daughter Srivalli in all the suits respectively being the parties as referred supra maintained four applications in I.A.Nos.817, 818, 819 and 820 of 2015 seeking to club one suit with the

other for all the four suits for joint trial. Those petitions were ended in dismissal after contest. It is impugning the same, the present revisions are maintained by the unsuccessful mother and daughter petitioners supra.

4. The order of the lower court in dismissing the applications show the said Dhanalaxmi, being D6 or D4 has no locus to ask for clubbing of the suits, where in none of the suits she is plaintiff. So far as the said Srivalli plaintiff concerned in saying almost self-same either mistakenly or otherwise apart from the other facts; of the facts are different, properties are different, reliefs are different, the plaintiffs are different, thereby clubbing does not arise and for that conclusion the learned trial judge relied on a single judge expression of this Court in ***Mangali Satukuri Anjaiah Vs., Nethi Rajaiah and another***¹.

5. There are only some of the contesting respondents before the lower court among the parties supra and in these revisions, heard the counsel for the revision petitioners supra and also the other respective advocates for the contesting respondents and perused the impugned orders and the grounds urged. Among the four suits, the suit O.S.No.144 of 2012 concerned is for an extent of 1764.50 square yards site in S.Nos.144 and 145 of Khanapuram of Khammam Urban, for the relief of declaration of title and for consequential

¹ 2003 (2) ALT 655

injunction, the claim is based on a gift deed dated 24.01.2012 said to have been executed in favour of the plaintiff Srivalli by her mother Dhanalaxmi supra. So far as O.S.No.39 of 2011 injunction suit of Y.P.Reddy etc., concerned is for only S.No.145 of Khanapuram for an extent of 1687.75 square yards. So far as O.S.No.46 of 2011 concerned, that is for S.Nos.141, 142, 144, 145 of Khanapuram for an extent of 1728.25 square yards. Similarly 1797 square yards is the extent in the other injunction suit O.S.No.180 of 2013 for part of the survey numbers among 141 to 145 or 146 of Khanapuram out of the total extent. Once such is the case and the suit for declaration and injunction is for the comprehensive relief and the other three suits are for injunction relief and most of the parties are common in all the suits, to avoid conflict of judgments, to sub-serve the ends of justice and that too when sought for it is just for the trial court to record common evidence in all the suits by directing the sole plaintiff of O.S.No.144 of 2012 to commence the trial with respect to her claim and also that of her mother along with her for all the four suits for recording in the main suit O.S.No.144 of 2017. Needful to say, any chief affidavit in any suit if filed viz., in O.S.Nos.39 and 46 supra of one of the plaintiffs if not taken on oath to ignore and if taken on oath to consider as chief affidavit by recording further chief examination for common evidence in 'D' series, after evidence of plaintiff Srivalli in O.S.No.144 of 2017 and her mother as

D4 or D6 in the other three suits to continue in 'P' series by virtue of this order.

6. Accordingly, the dismissal orders of the lower court are set aside since unsustainable more particularly from the expression of the Apex Court in ***State Bank of India Vs. Ranjan Chemicals Ltd. & Another***², saying it is not necessary for clubbing of the suits that all the questions or issues that arise should be common and same in all the action if some issues with some evidence common would be sufficient for joint trial to avoid conflicting expressions by directing for clubbing to record common evidence.

7. Accordingly and in the result, these civil revision petitions are disposed of, directing the lower court to club all the matters viz., O.S.No.39 of 2011, O.S.No.180 of 2013, and O.S.No.46 of 2011 along with O.S.No.144 of 2012 and proceed with the joint trial in accordance with law.

8. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

DR.B.SIVA SANKARA RAO, J

03.11.2017
SS

² 2007 (1) SCC 97