

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.5493 of 2017

ORDER : (Oral)

Vide the present petition, petitioner has assailed the order dated 27th July, 2017 passed in T.O.P.No.52 of 2016 on the file of Principal District Judge, Guntur.

2. Petitioner is plaintiff in O.S.No.80 of 2013 on the file of Senior Civil Judge, Sattenapalli. She filed the above application under Section 24 of CPC with a prayer to transfer the said suit to any of the Senior Civil Judges' Courts at Guntur.

3. The case of the petitioner is that her father Shaik Abdul Khadar @ Nyzam Bhikari was owning Ac.4-93 cents of land in Sy.No.146/1 of Sattenapalli Urban in Sattenapalli Mandal and Ac.0.10 cents of vacant site in D.No.118/B and 118/A1 in 23rd Ward, Sattenapalli town, besides a residential building in an extent of Ac.0-15 cents in Sattenapalli town. He died intestate in the year 1979 and his wife also died intestate in 1994. The petitioner and respondents 1 to 15 have succeeded to the estate of their parents. Demands of petitioner for partition of properties are not obliged. Accordingly, the petitioner was constrained to file the suit for partition as noted above.

4. It is not in dispute that the petitioner also filed I.A.No.819 of 2011 for interim injunction with a prayer for restraining alienation of property. Injunction order passed in the said I.A. was made absolute.

When the matter was at the stage of trial, the suit was transferred to Senior Civil Judge's Court, Sattenapalli and re-numbered as O.S.No.80 of 2013. Later, it was dismissed for default on 27.02.2013 when the petitioner failed to attend before the Court. Thereafter, she filed an application for restoration and the same was allowed.

5. The ground on which the petitioner is seeking transfer of suit is that after her marriage, she settled at Hyderabad and it is difficult for her to travel from Hyderabad to Sattenapalli to attend the case. The petitioner claimed that all the respondents and legal representatives of deceased defendants are entitled for their shares in the property. It shows that there is relationship between the parties. The petitioner has also claimed in the petition that the matter was pending at Sattenapalli Court till commencement of trial and at the trial stage, the suit was dismissed for default and on application, it was restored. It is also evident from the contents of the petition that the applications for inclusion of legal representatives of deceased defendants were also allowed by the Court. When the petitioner is able to prosecute at Sattenapalli several applications viz., restoration application and applications for inclusion of legal representatives, there is no justification to transfer the case from Sattenapalli to Guntur.

6. It is also not in dispute that the petitioner is also able to give complaint before the concerned Court and it appears that the matter was referred to the Police under Section 156(3) Cr.P.C. If not for this partition suit, at least for the criminal case, the petitioner may have to

travel to Sattenapalli. It is not the case of the petitioner that her complaint is not acted upon.

7. In view of the facts recorded above, I find no illegality or perversity in the order passed by the Court below.

8. Finding no merit, the revision petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

27th October 2017

ajr

SURESH KUMAR KAIT, J

