

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CRP No.2527 of 2015

ORDER:

This Civil Revision Petition is filed against the order dated 20.03.2015 in IA No.88 of 2015 in OS No.206 of 2012 passed by the Principal Junior Civil Judge, Proddatur.

The suit OS No.206 of 2012 is a suit for permanent injunction filed by the plaintiff against the two defendants. The matter went to trial and after the trial was substantially completed, an application in IA No.88 of 2015 was filed to dispose of the suit along with another suit OS No.205 of 2012 pending before the same Court. This application was filed under Section 151 CPC stating that another plaintiff filed a suit OS No.205 of 2012 against the same defendants. It was the contention of the learned counsel for the revision petitioner/plaintiff that as the suits are identical and there is a common cause of action, both the suits should be tried together and disposed of together. He wanted to rely on the documents filed in OS No.205 of 2012.

In reply thereto, the respondents/defendants filed a counter affidavit stating that the basic principles for clubbing the suits are not made out in this case. He

states that the plaintiffs, the cause of action and the properties are different. He submits that if the plaintiff intends to rely upon these documents, he can file an application to receive the documents and file the same with the permission of the Court.

The lower Court after considering the submissions of both the parties and the facts came to the conclusion that no grounds are made out to club these two suits together and accordingly IA No.88 of 2015 is dismissed. Aggrieved by the same, the plaintiff filed the present revision.

This Court has heard Sri J. Seshagiri Rao, learned counsel for the revision petitioner/plaintiff and Sri V. Nitesh, learned counsel for the respondents/defendants.

The contention of the learned counsel for the revision petitioner is that the order of the lower court is totally contrary to law. He argues that as the evidence is common in both the suits and common facts and law arose, it is better to club both the suits and try together. Therefore, he argues that the lower Court erred in passing the impugned order.

In reply thereto, the learned counsel for the respondents submits that the order passed is perfectly valid and correct order. The cause of action and the

schedules are different. The plaintiffs are also different in the said suits. Substantial progress is also made in OS No.206 of 2012. According to the learned counsel, clubbing of both the suits at this stage is not practical or feasible.

The lower Court noticed that in the suit OS No.206 of 2012, the trial was substantially completed; that the plaintiffs are different, but the defendants are same in the said two suits. As both the cases are coming up for arguments, the lower Court did not feel the need to club the said suits.

This Court after hearing both the learned counsel notices that the order passed by the lower Court is a reasoned order and case law was also discussed. The plaintiffs in both the suits are different and the schedules are also different. If at all, the plaintiff wanted to take steps for the suits to be tried together, such steps should have been taken at the very inception. After the evidence is completed and the matters are posted for arguments, clubbing of both the suits in the opinion of this Court is neither practical nor feasible. The order passed by the lower Court is a reasoned order. This Court finds no reason to interfere with the same.

Accordingly, the Civil Revision Petition is dismissed.

The order dated 20.03.2015 in IA No.88 of 2015 in OS No.206 of 2012 passed by the Principal Junior Civil Judge, Proddatur is confirmed. In the circumstances of the case, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 05.10.2018
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