

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.786 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw A.S.No.109 of 2006 from the file of the V Additional District Judge, Tirupathi, and transfer the same to this Court to hear along with A.S.No.3972 of 2004 and A.S.No.362 of 2006.

2. In spite of service of notice, the respondents did not choose to appear and oppose the petition. Hence, this Court is inclined to pass orders on merits. Heard the learned counsel appearing for the petitioners and perused the record.

3. A perusal of the record reveals that the first respondent filed O.S.No.152 of 1998 on the file of the Court of Additional Senior Civil Judge, Tirupathi, against the petitioners and the second respondent for declaration and perpetual injunction in respect of the suit schedule property. The petitioners herein have filed O.S.No.156 of 1998 against the respondents on the file of the Court of Additional Senior Civil Judge, Tirupathi, for declaration and recovery of possession of the suit schedule property. The trial Court clubbed O.S.Nos.152 of 1998 and 156 of 1998 and recorded common evidence. After full fledged trial, the trial Court partly decreed the suit in O.S.No.152 of 1998 and dismissed O.S.No.156 of 1998. Feeling aggrieved by the judgment and decree dated 28.09.2004 in O.S.No.152 of 1998, the first respondent preferred A.S.No.109 of 2006 on the file of the Court of V Additional District Judge, Tirupathi. Feeling

aggrieved by the judgment and decree dated 28.09.2004 in O.S.No.156 of 1998, the petitioners preferred A.S.No.3972 of 2004 on the file of this Court. Feeling aggrieved by the judgment and decree dated 28.09.2004 in O.S.No.152 of 1998, the petitioners preferred A.S.No.362 of 2006 on the file of this Court.

4. A perusal of the record clearly reveals that the trial Court passed common judgment in O.S.Nos.152 of 1998 and 156 of 1998. If A.S.No.109 of 2006 is disposed of by the learned V Additional District Judge, Tirupathi, it may lead to conflicting of judgments. In order to avoid conflicting judgments, this Court is of a considered view that it is a fit case to allow the petition.

5. In the result, the Transfer Civil Miscellaneous Petition is allowed withdrawing A.S.No.109 of 2006 from the file of the V Additional District Judge, Tirupathi, and transferred to this Court to hear along with A.S.No.3972 of 2004 and A.S.No.362 of 2006. The learned V Additional District Judge, Tirupathi, is hereby directed to send the entire record in A.S.No.109 of 2006 to this Court as expeditiously as possible. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:20.09.2018
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