

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.472 of 2018

ORDER:

This petition is filed under Section 24 read with 151 CPC assailing the order dated 27.06.2017 in Transfer O.P.No.480 of 2016 on the file of the Court of District Judge, Ananthapuram.

2. Heard the learned counsel for the petitioners and perused the material on record.

3. A perusal of the record reveals that respondents 1 to 4 have filed O.S.No.2 of 2013 on the file of the Principal Junior Civil Judge, Ananthapuram, against the petitioners 1 and 2 for perpetual injunction in respect of the suit schedule property of an extent of Ac.0.10 cents in Survey No.41-2 of Kakkalapalli village of Ananthapuram district. The third petitioner filed O.S.No.22 of 2013 on the file of Additional Senior Civil Judge, Ananthapuram, against the fourth respondent and two others. During pendency of the suits, the petitioners filed Transfer Petition No.488 of 2016 on the file of the District Judge, Ananthapuram. The learned District Judge, after affording a reasonable opportunity to both parties, dismissed the petition on merits. Hence, the present petition.

4. O.S.No.22 of 2013 was filed by the third petitioner for declaration in respect of an extent of Ac.0.05 cents in Survey

No.41-2 of Kakkalapalli village. A perusal of the record reveals that defendants 1 and 2 in O.S.No.22 of 2013 are not parties to O.S.No.2 of 2013. The total extent of land in O.S.No.2 of 2013 is Ac.0.10 cents, whereas, the extent of land in O.S.No.22 of 2013 is Ac.0.05 cents. In a suit for declaration, the plaintiff may succeed or fail basing on the strength or weaknesses of his case. A suit for declaration is a comprehensive one. A perusal of the record reveals that parties in both the suits are not one and the same. The relief sought in both the suits is not one and the same. The cause of action for filing of both suits is also not one and the same. Even if both the Courts delivered the judgments separately, it would not lead to conflicting of judgments. The learned District Judge considered these aspects and rightly dismissed the petition. The learned District Judge has assigned reasons much less cogent and valid reasons to his findings. I am fully endorsing with the findings recorded by the Court below. Hence, there are no merits in this petition and the same is liable to be dismissed.

5. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

30th July 2018
Rns

