

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.501 of 2018

ORDER:

This petition is filed under Section 24 CPC seeking to withdraw O.S.No.324 of 2010 on the file of the Court of I Additional Senior Civil Judge, Rajamahendravaram, East Godavari District, and transfer the same to the Court of X Additional District Judge, Rajamahendravaram, to try along with O.S.No.4 of 2011.

2. Heard the learned counsel for the petitioner and perused the record.

3. A perusal of the record reveals that the first respondent herein filed O.S.No.324 of 2010 on the file of the Court of I Additional Senior Civil Judge, Rajamahendravaram, against the petitioner for declaration and recovery of possession in respect of the suit schedule property. Respondents 2 to 6 herein have filed O.S.No.4 of 2011 on the file of the Court of SC, ST (POA)-cum-X Additional District Judge, Rajamahendravaram, against first respondent and two others for declaration and recovery of possession in respect of the suit schedule property. The petitioner filed Transfer O.P.No.10 of 2018 on the file of Principal District Judge, Rajamahendravaram, East Godavari District, under Section 24 CPC seeking to withdraw O.S.No.324 of 2010 on the file of I Additional Senior Civil Judge, Rajamahendravaram and

transfer the same to X Additional District Judge's Court, Rajamahendravaram to try along with O.S.No.4 of 2011. The learned District Judge, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, this petition.

4. Now, the point that arises for consideration is whether there are any grounds to interfere with the order under challenge?

5. The petitioner herein is the sole defendant in O.S.No.324 of 2010. It is not in dispute that the petitioner herein is not a party to O.S.No.4 of 2011. Defendants 2 and 3 in O.S.No.4 of 2011 are not parties to O.S.No.324 of 2010. The subject matter involved in both the suits is not one and the same, though some of the properties are common. The plaintiff in O.S.No.324 of 2010 is claiming the property in pursuance of the Will dated 20.05.2006. The plaintiff in O.S.No.4 of 2011 is claiming the property basing on the Will dated 09.07.2006. The cause of action for filing both the suits is also not one and the same. The plaintiffs in both the suits are claiming their respective rights basing on two different Wills. The evidence to be adduced by the parties to the proceedings is entirely different in both the suits. Even if both the suits are decided by two different courts, it would not lead to conflicting judgments or multiplicity of litigation. The trial Court considered all these aspects in right

perspective and dismissed the petition. I am fully endorsing the findings recorded by the Court below. There are no grounds to interfere with the order of the trial Court and the same is liable to be dismissed.

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

7th August 2018
Rns

T.SUNIL CHOWDARY, J



