

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 882 OF 2017

ORDER:

This transfer civil miscellaneous petition under Section 24 of the Code of Civil Procedure (for short, 'C.P.C.') is filed to withdraw A.S.No.54 of 2013 pending on the file of III Additional Chief Judge, City Civil Court, Hyderabad, and transfer the same to this Court to hear along with C.C.C.A.No.35 of 2013, pending on the file of this Court.

The petitioner contended that the respondent filed O.S.No.1690 of 2001 before the VIII Senior Civil Judge, Hyderabad for partition of suit schedule property and O.S.No.1794 of 2003 for perpetual injunction in respect of the same property bearing Door No.17-1-382/V/2/7, Vyshali Nagar, Champapet, Hyderabad and that the trial Court pronounced the common judgment on 05.11.2012 granting decree in O.S.No.1690 of 2001 and dismissed O.S.No.1794 of 2003. In view of valuation of both suits, the petitioner preferred A.S.No.54 of 2013 against O.S.No.1794 of 2003 Chief Judge, City Civil Court, Hyderabad and C.C.C.A.No.35 of 2013 against O.S.No.1690 of 2001 before this Court.

The only grievance of the petitioner before this Court is that if the appeal is allowed to be decided by the two different Courts, there is every possibility of conflicting judgment. Therefore, to avoid conflicting judgment requested to withdraw A.S.No.54 of 2013, pending on the file of III Additional Chief Judge, City Civil Court, Hyderabad and transfer the same to this Court for being heard along with C.C.C.A.No.35 of 2013.

Notice served on respondent and proof of service was filed, but none appeared.

The undisputed fact is that two suits were filed as stated supra against one another and common judgment was pronounced by the VIII Senior Civil Judge, City Civil Court, Hyderabad on 05.11.2012. Aggrieved by the same, A.S.No.54 of 2013 was filed and pending before III Additional Chief Judge, City Civil Court, Hyderabad and C.C.C.A.No.35 of 2013 before this Court. If the appeals are allowed to be heard and decided by the two different Courts, there is every possibility of conflicting judgment. Therefore, to avoid conflicting judgments, I find that it is a fit case to withdraw A.S.No.54 of 2013 from the file of III Additional Chief Judge, City Civil Court, Hyderabad and transfer the same to this Court to try along with C.C.C.A.No.35 of 2013.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed withdrawing A.S.No.54 of 2013 pending on the file of III Additional Chief Judge, City Civil Court, Hyderabad and transferred to this Court to hear and dispose of in accordance with law. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

M.SATYANARAYANA MURTHY, J.

Date: 19.01.2018

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