

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1010 of 2019

ORDER:

This Revision is filed challenging the order dt.27.02.2019 in Tr.OP.No.1994 of 2018 of the Chief Judge, City Civil Court, Hyderabad refusing to transfer O.S.No.1386 of 2016 from the Court of XX Junior Civil Judge, City Civil Court, Hyderabad to the Court of VI Senior Civil Judge, City Civil Court, Hyderabad to be tried along with O.S.No.1185 of 2006 pending on the file of the later Court.

2. Petitioner herein claims to be the 1st wife of late Syed Zahid Hussain. He had filed O.S.No.1185 of 2006 against respondents 7 to 10 for their eviction before the VI Senior Civil Judge, City Civil Court, Hyderabad. Pending the said suit, he died and respondents 2 to 6 were impleaded as his LRs on 13.04.2016.

3. Claiming to be the legal representative of late Syed Zahid Hussain, petitioner also got impleaded on 20.09.2016 in O.S.No.1185 of 2006 and trial has already commenced in the said suit.

4. In 2016, petitioner filed O.S.No.1386 of 2016 before the XX Junior Civil Judge, City Civil Court, Hyderabad for partition of the premises which is the subject matter of O.S.No.1185 of 2006, claiming that she is entitled to a share on the death of her husband on 29.10.2013.

5. The reason why the petitioner seeks clubbing of both the suits is that the same property is subject matter of both the suits and the parties are also common to both the suits and to avoid conflicting judgments it is necessary to try them together.

6. Counter affidavit was filed by respondents 2 to 6 stating that O.S.No.1185 of 2006 had been stayed by this Court, but subject matters of both the suits are different.

7. The 9th respondent filed a counter stating that cause of action in both the suits is separate and distinct. Similar plea was taken by the 10th respondent.

8. By order dt.27.02.2019, the Court below dismissed the Tr.O.P. It held that O.S.No.1185 of 2006 was an old suit coming up for cross-examination of PW1, but O.S.No.1386 of 2016 is a suit for partition and separate possession, and that causes of action and issues involved in both the suits are also different, and so they cannot be tried together.

9. Assailing the same, this Revision is filed.

10. Though counsel for petitioner sought to contend that there is a possibility of passing of conflicting judgments if both the suits are not tried together, I do not foresee any such event because the causes of action and issues in both the suites are totally different and O.S.No.1185 of 2006 is at an advanced stage while O.S.No.1386 of 2016 is only at the stage of framing of issues.

11. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India and this Revision fails.

12. Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

13. Consequently, miscellaneous petitions pending if any, shall stand closed.

04th June, 2019.

gra

M.S. RAMACHANDRA RAO, J

