

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

Civil Revision Petition No.1215 of 2019

ORDER:-

This Revision is filed under Article 227 of the Constitution of India challenging order dt.26.04.2019 in I.A.No.334 of 2019 in O.S.No.52 of 2016 of the Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy, and to conduct joint trial.

2. Petitioner herein as G.P.A. Holder of 1st respondent instituted O.S.No.52 of 2016 against respondents No.2 to 4 for declaration that certain sale deeds executed in 2003 and 2007 are null and void, for rectification of revenue entries and for perpetual injunction in respect of an extent of Ac.2.02 gts., in Sy.No.356/A and Ac.2.02 gts., in Sy.No.356/C of Velmela village of Ramachandrapuram Mandal, Medak District.

3. Pending the said suit, it is alleged that the 1st respondent cancelled the GPA executed by her in favour of the petitioner on 06.10.2017 and also got issued a notice dt.01.02.2018 to the petitioner.

4. The petitioner then filed O.S.No.140 of 2018 alleging that there was a Memorandum of Understanding between himself and the 1st respondent, executed on 28.04.2015, wherein the 1st respondent had agreed to provide half share in the above referred property to him and for specific performance of the same.

5. Petitioner later filed I.A.No.334 of 2019 under Section 151 C.P.C., to club both the suits, which are pending before the same Court. He pointed out that he had come to know that the 1st

respondent has entered into a compromise with the 4th respondent and is trying to get the same recorded by filing an application under Order XXIII Rule 3 C.P.C., in O.S.No.52 of 2016; that he intends to oppose the said compromise since his 50% share is involved in O.S.No.140 of 2018 and there is every possibility of the respondents withdrawing O.S.No.52 of 2016 behind his back

6. Counter affidavit was filed by the 1st respondent denying that there was any Memorandum of Understanding between the parties as is alleged by the petitioner. It is also contended that facts and issues to be decided in both the suits are entirely different and parties are also different and there is no necessity to club them.

7. The 4th respondent also opposed the said application stating that the 1st respondent is suspecting the *bona fides* of the petitioner and rightly cancelled the G.P.A., and later entered into compromise with him and so, petitioner cannot object, particularly when he is not a party in O.S.No.140 of 2018.

8. By order dt.26.04.2019, the Court below dismissed the said application. It opined that the disputes in both the suits are different though the subject matter of both the suits is one and the same and issues are also not common. It observed that the disposal of O.S.No.52 of 2016 would have no bearing on the disposal of O.S.No.140 of 2018. It also opined that no interest in the property has been created in favour of the petitioner in the G.P.A.

9. Assailing the same, this Revision is filed.

10. Heard Mr.Meherchand Noori, counsel for petitioner, Ms.Naseem Ara, Counsel for R.1, and Mr.Srinivas Velagapudi, Counsel for R.4. Respondents No.2 and 3 are not necessary parties in this Revision.

11. From the facts narrated above, it is clear that the property which is subject matter of O.S.No.140 of 2018 is the same property which is subject matter of O.S.No.52 of 2016 also. The 1st respondent who is the plaintiff in O.S.No.52 of 2016 is the defendant in O.S.No.140 of 2018. In my considered opinion, the result in O.S.No.140 of 2018 is dependent on the result of O.S.No.52 of 2016 because if O.S.No.140 of 2018 is decreed and O.S.No.52 of 2016 is dismissed, then it would create complications for the petitioner. Therefore, I do not agree with the Court below that the issues in the suits are different and that they need not be clubbed.

12. Accordingly, Civil Revision Petition is allowed; order dt.26.04.2019 in I.A.No.334 of 2019 in O.S.No.52 of 2016 of the Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy, is set aside; and the said I.A. is allowed.

Consequently, miscellaneous petitions if any pending in the Civil Revision Petition shall stand dismissed.

M.S.Ramachandra Rao, J

6th August, 2019

smr