

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

Tr.CMP. No.205 of 2018

ORDER:

Heard the learned counsel for the petitioners.

2. Though the notice has been served on the 1st respondent none appears for the 1st respondent.

3. This petition is filed by the petitioners seeking transfer of O.S. No.55 of 2017 on the file of Additional Junior Civil Judge at Malkajgiri to the Court of XII Additional Chief Judge, City Civil Court at Secunderabad to be tried along with O.S. No.56 of 2017 on the file of the said Court.

4. The petitioners herein had filed on the file of the XII Additional Chief Judge, City Civil Court at Secunderabad O.S. No.56 of 2017 against the respondents for partition of the suit schedule properties. They alleged that the suit schedule properties described 'A' and 'B' schedule belong to their mother and under her will dt.26.02.1996 petitioners 2 and 3 have an half share in the 'A' schedule property and the 1st respondent and another brother E.Raj Kumar have half share in 'B' schedule property, 'C' schedule property is said to have been purchased by the petitioners 2 and 3 and their brother E.Raj Kumar jointly under a registered sale deed. According to them the 3rd petitioner, 1st respondent and E.Vijay Kumar are joint owners to 'D' schedule property too.

5. The 1st respondent herein filed O.S. No.55 of 2017 before the Additional Junior Civil Judge at Malkajgiri also for partition, but in that suit only two items, which are mentioned by the petitioners in the 'C' schedule property in O.S. No.56 of 2017 are mentioned.

6. The 1st respondent impleaded petitioners herein as defendants 1, 2 and 3 in the suit as well.

7. Counsel for the petitioners contends that the suit O.S. No.56 of 2017 filed by the petitioners before the XII Additional Chief Judge, City Civil Court at Secunderabad is a more comprehensive suit since properties forming subject matter of that suit include the properties which are subject matter of O.S. No.55 of 2017 also and there is a possibility of conflicting judgments. So both suits ought to be tried together and common judgment should be delivered therein.

8. A verification of the pleadings in O.S. No.56 of 2017 and O.S. No.55 of 2017 shows that the contentions of the counsel for the petitioners are correct.

9. Since both suits are between same parties and O.S. No.56 of 2017 pending before the XII Additional Chief Judge, City Civil Court at Secunderabad is a more comprehensive suit and the properties which are subject matter of O.S. No.55 of 2017 filed by the 1st respondent against the petitioners are also included in the schedule in O.S. No.56 of 2017, there is a possibility of conflicting judgments if the suits are tried separately.

10. Therefore, this petition is allowed and O.S. No.55 of 2017 on the file of the Additional Junior Civil Judge at Malkajgiri is transferred to the Court of XII Additional Chief Judge, City Civil Court at Secunderabad to be tried along with O.S. No.56 of 2017. There shall be no order as to costs.

11. As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28.06.2019
LSK

