

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

CIVIL REVISION PETITION NO.4390 OF 2013

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 17.07.2013 passed in I.A.No.111 of 2013 in O.S.No.526 of 2012 on the file of the Principal Junior Civil Judge, Khammam.

Petitioner herein is plaintiff in O.S.No.526 of 2012 and defendant in O.S.No.197 of 2012, both of which are pending before the Principal Junior Civil Judge, Khammam.

In O.S.No.197 of 2012, the second respondent sought relief of perpetual injunction against the petitioner in respect of an extent of 616.40 square yards of open site at Nelakondapally Village of Khammam District.

It is his case that he purchased the said property from the first respondent under a registered sale deed dated 25.10.2010 and that the petitioner is interfering with his possession and enjoyment of the suit schedule property.

O.S.No.526 of 2012 was filed by the petitioner against respondents 2 and 3 for specific performance of agreement of sale dated 05.07.1986 allegedly executed by the first respondent promising to sell 550 square yards of land situated at Nelakondapally Village of Khammam District to him and it is specifically mentioned therein that the first respondent sold the property to the second respondent under registered sale deed dated 25.10.2010 without executing a registered

sale deed in his favour pursuant to the agreement of sale dated 05.07.1986.

When I.A.No.111 of 2013 was filed before the Court of the Principal Junior Civil Judge at Khammam, to either club both the suits for single trial or to try them simultaneously to avoid conflicting decisions, the Court below dismissed the same on 17.07.2013 stating that the extent in O.S.No.197 of 2012 is 616 square yards whereas in O.S.No.526 of 2012, it is 550 square yards. Though the parties to both the suits are common, it observed that O.S.No.197 of 2012 was filed for perpetual injunction while O.S.No.526 of 2012 was filed for specific performance of the agreement of sale and the point to be considered is not the same in both cases. Aggrieved by the same, the present Revision is filed.

Counsel for the petitioner submitted that the title to the same property is an issue in both the suits.

When there is a strong connection and interrelation between both the suits, it is necessary that there are no conflicting decisions in the suits.

Though notice was served on the first respondent, there is no representation on his behalf.

Sri K. Vinay Kumar, counsel appearing for the second respondent, supported the order passed by the Court below.

From the rival contentions of the parties in the said suits, it is clear that property in question initially belonged to first respondent herein. It is alleged by the petitioner that the first respondent had

executed an agreement of sale in his favour on 05.07.1986 promising to sell 550 square yards but instead of doing so, sold it under a registered sale deed to the second respondent on 25.10.2010.

It is the contention of the second respondent in O.S.No.197 of 2012 that the petitioner is interfering with his possession and enjoyment of the suit schedule property.

In my considered opinion, the subject matter of both the suits is interrelated and the property, which is the subject matter of O.S.No.526 of 2012 is part of the property which is the subject property of O.S.No.197 of 2012. Merely because reliefs sought in the suits are slightly different, the Court below cannot ignore the fact that parties are common to both the suits also. There is thus every possibility of conflicting judgments in both the suits.

Accordingly, the order dated 17.07.2013 in I.A.No.111 of 2013 in O.S.No.526 of 2012 on the file of the Principal Junior Civil Judge at Khammam is set aside and the said I.A. is allowed. The Court below is directed to club both the suits and have the joint trial therein.

The Revision is allowed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

(M.S.RAMACHANDRA RAO, J)

29th July 2019
RRB