

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

CIVIL REVISION PETITION NO.6563 OF 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 08.10.2018 in I.A.S.R.No.7454 of 2018 in O.S.No.377 of 2013 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad.

Petitioners herein are plaintiffs 2 and 3 in O.S.No.377 of 2013. They had filed the said suit along with the fourth respondent for recovery of possession of the plaint schedule property located at Adarshnagar, Hyderabad and also for perpetual injunction restraining the defendants therein from altering the nature of the suit schedule property by making structures on the terrace.

Respondents 1 to 3 are defendants in O.S.No.377 of 2013.

Respondents 1 to 3 along with one A.Akhila filed O.S.No.19 of 2017 before the III Additional Chief Judge, City Civil Court, Hyderabad, against petitioners 1 and 2 and the fourth respondent for specific performance of an agreement of sale allegedly executed on 21.03.2007 by Dr. P. Ranga Reddy. They contended that the said Dr. P. Ranga Reddy executed a registered Will dt. 13.12.2001 bequeathing his property jointly in favour of one P. Uma Kanth Reddy and the second petitioner.

Both these suits relate to the same property between the same parties.

Petitioners filed I.A.No.2361 of 2018 invoking Section 151 of the Code of Civil Procedure, 1908, to club O.S.Nos.377 of 2013 and 19 of 2017 which were pending before the III Additional Chief Judge, City Civil Court, Hyderabad, in order to avoid conflicting judgments and to prevent duplication of evidence.

On the ground that there was no representation on behalf of the petitioners, the application was rejected on 20.08.2018.

Petitioners again filed I.A.S.R.No.7454 of 2018 seeking clubbing of both suits pending before the III Additional Chief Judge, City Civil Court, Hyderabad.

On the pretext the said Court had rejected I.A.No.2361 of 2018 on 20.08.2018, I.A.S.R.No.7454 of 2018 was also dismissed on 08.10.2018.

Assailing the same, this Revision is filed.

Counsel for the petitioners contends that both the suits relate to same property and are between same parties and if they are decided separately, there is every likelihood of passing of conflicting judgments and duplication of evidence and the Court below, therefore, could not have dismissed I.A.S.R.No.7454 of 2018.

He also contended that I.A.No.2361 of 2018 had been dismissed only on the ground that there was no representation on behalf of the petitioners when it was taken up, and it does not bar filing of I.A.S.R.No.7454 of 2018.

Counsel for the respondents refuted the contentions and supported the order passed by the Court below. He also reiterated that

I.A.No.2361 of 2018 having dismissed on 20.08.2018, I.A.S.R.No.7454 of 2018 also deserves to be dismissed.

Admittedly, the dismissal of I.A.No.2361 of 2018 on 20.08.2018 is only on the ground that there was no representation on behalf of the petitioners. Therefore, it is not an order on merits.

So, there was no bar for the petitioners to file I.A.S.R.No.7454 of 2018 seeking clubbing of the suits.

When the property, which is the subject matter of both suits, is one and the same, and the suits are between the same parties essentially, there is every possibility of conflicting judgments, and also duplication of evidence, if both suits are decided separately.

Therefore, the order dated 08.10.2018 in I.A.S.R.No.7454 of 2018 in O.S.No.377 of 2013 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad, is set aside and the said I.A.S.R.No.7454 of 2018 is allowed and the Court below is directed to club O.S.No.377 of 2013 and O.S.No.19 of 2017 on its file and decide both of them together in accordance with law.

The Revision is allowed, accordingly.

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

(M.S.RAMACHANDRA RAO, J)

24th July 2019
RRB