



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

HONOURABLE SRI JUSTICE M. VENKATA RAMANA

C.R.P.No. 1488 OF 2019

Between:

Konda Hanuma Reddy @ Peda Hanuma Reddy,
S/o. Late Sambu Reddy, Hindu, cultivation,
Aged 52 years, resident of # 16-131,
Namburu Village, Pedakakani Mandal,
Guntur District.

... PETITIONER

AND

1. Vuyyuru Malleswari,
W/o. late Atchi Reddy, Hindu, Housewife,
Aged about 58 years, R/o. Namburu Village,
Pedakakani Mandal, Guntur District and 5 others

... RESPONDENTS

DATE OF JUDGMENT PRONOUNCED : 16.12.2019

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE M. VENKATA RAMANA

1. Whether Reporters of Local Newspapers
May be allowed to see the order? Yes/No
2. Whether the copy of order may be
Marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to
See the fair copy of the order? Yes/No

M.VENKATA RAMANA,J



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***HONOURABLE SRI JUSTICE M. VENKATA RAMANA**

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... RESPONDENTS

! Counsel for appellant : Sri N. Satyanarayana

^Counsel for Respondents : Sri P. Vijaya Kiran

<GIST:

>HEAD NOTE:

? Cases referred:



HON'BLE SRI JUSTICE M.VENKATA RAMANA
CIVIL REVISION PETITION No.1488 OF 2019

ORDER:

This Civil Revision Petition is directed against order of the Court of XII Additional District Judge-cum-Family Judge, Guntur in I.A.No.169 of 2019 in O.S.No.130 of 2013, dated 20.04.2019.

2. The above petition was filed under Section 151 CPC to consolidate O.S.No.130 of 2013 and O.S.No.64 of 2017 on the file of the above Court and to conduct a common trial.

3. The first respondent, as the plaintiff, instituted O.S.No.130 of 2013 for partition and division of properties mentioned in the plaint schedule against the petitioner as well as respondents 2 to 6, who are defendants 1,2 and 4 to 6. The plaint schedule consists of seven items of immovable property at Nambur village of Guntur District of different extents of agricultural lands.

4. The petitioner instituted O.S.No.64 of 2017 against respondents 3,6 and 5 for declaration of his right, title and interest to the plaint schedule properties therein, to declare the registered gift deed dated 07.04.2001 bearing No.772/2007 of S.R.O., Pedakakani as well as registered sale deed dated 20.12.2007 bearing document No.3103 of 2007, dated 20.12.2007 and also registered will No.97 of 2007, dated 20.12.2007, of Duggirala SRO, alleged to have been executed by Sri Konda Sambhi Reddy, being sham, nominal and void documents. There are five items in the plaint schedule of O.S.No.64 of 2017, which are all agricultural lands at different villages.

5. Now, the contention of the petitioner is that, these suits have to be tried together, since property concerned to both of them are one and the same and for better adjudication of the matters in issue.



6. The first respondent opposed the petition mainly on the ground that she is not a party to O.S.No.64 of 2017 and that the parties to both the suits are different. She also contended that reliefs claimed in both the suits are different and that in such event, neither clubbing nor recording common evidence in both the suits cannot arise.

7. Learned trial Judge considered the objections of the first respondent and observed that there is no necessity to club both the suits.

8. It is against this order the present civil revision petition is preferred.

9. Heard Sri N. Satyanarayana, learned counsel for the petitioner, and Sri P.Vijaya Kiran, learned counsel for the first respondent.

10. Now, the point for determination is -“Whether the suits in O.S.No.130 of 2013 and O.S.No.64 of 2017 can be consolidated to record common evidence?

POINT:

11. The parties are closely related. As seen from the averments in O.S.64 of 2017, the first respondent is none other than the elder sister of the petitioner. It is further averred in the same plaint referring to the circumstances under which he was set ex parte in O.S.No.130 of 2013 and also referring his attempts to get the ex parte orders so passed against him set aside. As seen from the order under revision, it is clear that the petitioner is contesting the suit in O.S.No.130 of 2013, obviously on account of the setting aside ex parte orders passed against him.

12. When the case of both the parties, as set up in the suits is considered, when the dispute is essentially in relation to agricultural lands, amongst those who are closely related, possibility of evidence concerned to both the suits overlapping, is very much seen. If both the suits are clubbed and tried jointly,



it would not only facilitate the parties but also the trial court, to proceed with the matters in issue in proper perspective. The petitioner has set out the purpose and object of filing the petition. It would facilitate the parties, to lead such evidence in one suit on all aspects. It saves time of all concerned. Thus, conspectus of facts, gives rise to an impression that, both the suits are so intimately connected to each other and that separate trial in both of them, is not desirable. Rightly, the petitioner approached the trial court with such request. It should have been considered by the trial Judge than rejecting it. One of the items concerned to O.S.No.64 of 2017 is not a property concerned to O.S.No.130 of 2013 and so also the first and second respondents are not parties to O.S.No.64 of 2017. Nonetheless, these circumstances, cannot be treated as significant omissions, in the context of nature of the dispute among these parties.

13. The learned trial Judge has taken into consideration the matter upon microscopic examination, of the nature of the properties involved in the suits. Considering the nature of the petition filed in the trial court, such approach is completely unwarranted. The approach of the learned trial judge in this respect, is not correct and bad in the eye of law. Therefore, it is required to be corrected under the supervisory jurisdiction of this Court in terms of Article-227 of Constitution of India, as consolidation of both the suits subserves in the interest of justice.

14. In the result, the Civil Revision Petition is allowed, setting aside the order of the Court of learned XII Additional District Judge, Guntur in I.A.No.169 of 2019 in O.S.No.130 of 2013. Consequently, O.S.No.130 of 2013 and O.S.No.64 of 2017 are directed to be tried together, treating O.S.No.130 of 2013 as the lead suit. In the process of this consolidation of both the suits, depending upon the nature of the issues settled in both the suits, the parties are permitted to let in evidence in O.S.No.130 of 2013, which shall be



common for the suit in O.S.No.130 of 2013 and O.S.No.64 of 2017. Any evidence let in, till now, in O.S.No.130 of 2013 shall be treated as the evidence in respect of both the suits. The trial Court is directed to give opportunity to the parties concerned, in view of this order of consolidation, for further examination of the witnesses, whose evidence is already recorded in O.S.No.130 of 2013. It is also left open for the petitioner to implead, if so advised, the respondents 1 and 2 as parties to O.S.No.130 of 2013, in order to avoid effect of any of technicalities. No costs.

As sequel, pending miscellaneous petitions, if any, shall stand closed. Interim Orders, if any, shall stand vacated.

JUSTICE M.VENKATA RAMANA

Dt: 16.12.2019.
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HON'BLE SRI JUSTICE M.VENKATA RAMANA

CIVIL REVISION PETITION No.1488 of 2019

DATE: 16-12-2019

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