



2023:APHC:20224

HIGH COURT OF ANDHRA PRADESH
THURSDAY ,THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI
CIVIL REVISION PETITION NO: 2029 OF 2022

Between:

1. Smt. Ranjana Gadia W/o Sri Dilip Gadla, Hindu, 49y, R/o Plot No. 203 A and B, AIP, Peda Gantyada, Gajuwaka, Visakhapatnam

...PETITIONER(S)

AND:

1. Dr. Yedla Ramesh Naidu S/o Sri Demudu, Hindu, 68y, R/o Plot No. 173, Lawsons Bay Colony, Pedawaltair, Visakhapatnam

...RESPONDENTS

Counsel for the Petitioner(s): P RAJASEKHAR

Counsel for the Respondents: S SRIDHAR

The Court made the following: ORDER



2023:APHC:20224

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI
Civil Revision Petition No.2029 of 2022

Between:

Smt Ranjana Gadia, W/o Sri Dilip Gadia,
Hindu, aged about 49 yrs,
R/o Plot No.203 A&B, AIP,
Peda Gantiyada, Gajuwaka,
Visakhapatnam District.

....Petitioner

A n d

Dr.Yedla Ramesh Naidu, S/o Sri Demudu,
Hindu, aged about 68 yrs,
R/o Plot No.173, Lawsons Bay Colony,
Pedawaltair, Visakhapatnam.

....Respondent

DATE OF ORDER PRONOUNCED : 22.06.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

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| 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 Her Ladyship wish to see the fair copy of the order? | Yes/No |

B. S. BHANUMATHI,



THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Civil Revision Petition No.2029 of 2022

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Hindu, aged about 68 yrs,
R/o Plot No.173, Lawsons Bay Colony,
Pedawaltair, Visakhapatnam.

....Respondent

! Counsel for the petitioner : Sri Prabhala Raja Sekhar

^ Counsel for the Respondent : Sri S.Sridhar

< Gist:

> Head Note:

? Cases referred:



THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Civil Revision Petition No.2029 of 2022

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the petitioner against the order dated 04.08.2022 in TOP No.4 of 2022 on the file of the court of Principal District Judge, Visakhapatnam filed under Section 24 CPC to transfer suit in O.S.No.468 of 2007 on the file of II Additional Junior Civil Judge, Anakapalli to try along with suit in O.S.No.10 of 2019 on the file of the Court of X Additional District Judge, Anakapalli, Visakhapatnam District.

2. TOP No.4 of 2022 was filed on the ground that O.S.No.468 of 2007 was filed before the Court of Principal Junior Civil Judge, Anakapalle by the petitioner for permanent injunction against the respondent in respect of property to an extent of Ac.4.72 ½ cents land in S.No.239/9 to 14 and 16 to 20 of Gollapalem, Subbavaram Mandal, Visakhapatnam District. Later, the suit was transferred to the court of II Additional Junior Civil Judge, Anakapalli. The suit was posted for cross examination of DW.1 since December, 2018. As on the date of filing of the transfer petition, the said suit was adjourned to 28.01.2022. The respondent, along with 12 others, filed suit in O.S.No.10 of 2019 on the file of the Court of X Additional District Judge, Anakapalle against the petitioner, her husband and her vendors for declaration of title in respect of the same property which is the subject matter of O.S.No.468 of 2007. O.S.No.10 of 2019 was also posted to



28.01.2022 for taking steps to bring LRs of the defendants no.4, 8 and 16 who died. The petitioner submitted that the contentions and evidence of both parties is the same in both suits and therefore it is necessary that both suits be tried by the same Court to avoid multiplicity of evidence and conflicting judgments, since O.S.No.10 of 2019 is the comprehensive suit.

3. The respondent did not oppose the petition and did not file counter. However, the learned Principal District Judge directed, by a detailed order, the petitioner in the transfer O.P.No.4 of 2022 is as follows:

“1. Add all the parties to O.S.No.10 of 2019 on the file of X Additional District Judge, Anakapalli to the present petition and carry out amendment and file neat copy. This direction is given exercising discretion in terms of Order 1 Rule 10(2) r/w Sections 41 and 151 of CPC.

2. To avoid further delay if any, the petitioner is permitted cause service of notice of neat copy on the counsel who is representing the parties being added for the favour of information and accommodation if they are willing to take notice.

3. For necessary compliance posted to 08.09.2022.”

Having aggrieved by the directions, this revision petition is preferred.

4. The learned counsel for the petitioner submitted that Order I, Rule 10 or even 151 CPC cannot be invoked for the petition under Section



24 CPC as the scope and object of Section 24 CPC does not contemplate notice to the parties in the connected suit.

5. The learned counsel for the respondent submitted that in fact no objection was raised by the respondent for granting the relief claimed in the transfer petition. He further submitted that the petitioner ought to have complied the directions issued by the Principal District Judge, instead of filing the revision petition.

6. In the impugned order, the learned Judge, after referring to the provisions in Order I, Rule 3 CPC and Order I Rule 10 CPC held the opinion that commonality of parties and connectivity between two matters is asserted by the petitioner and therefore deciding such aspect in the absence of the parties to the other connected matter would amount to violation of principles of natural justice. Hence, the learned Judge felt that it is desirable to direct adding all the parties in the connected suit to this petition and giving them notice of this petition.

7. For the purpose of better appreciation, Section 24 CPC is excerpted here below:

“24. General power of transfer and withdrawal.—(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage—

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or



(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and—

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which is thereafter to try or dispose of such suit or proceeding may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section,—

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) “proceeding” includes a proceeding for the execution of a decree or order.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it.”

8. The objects of or reasons for transferring or withdrawal of a case may be multiple. Section 24 CPC does not specifically say that hearing shall be given to all the parties to even the case proposed to be transferred or withdrawn. On the other hand, it indicates notice to parties and hearing of such of them as desired to be heard. Therefore, a wide discretion is given to the Court as to who should be heard before taking a decision of transfer or withdrawal of a case. Such discretion of



a Court must be exercised judiciously in the context of the reason for transfer of that case.

9. In the present case, the petitioner filed the suit for permanent injunction where there is only one plaintiff and one defendant is connected to the other suit filed by the defendant herein for declaration of title etc., against the petitioner/plaintiff herein and several others in respect of the very same property. It is stated by the petitioner that if both matters are tried together, it would avoid the multiplicity of evidence and conflicting decisions.

10. Unless two suits are clubbed to record common evidence in one of them, multiplicity of recording the evidence of witness cannot be avoided.

11. The suit sought to be transferred has already progressed to the extent of recording evidence of DW.1. Though it is desirable to have common evidence in the circumstances of the present cases, how far it is possible in view of advanced stage of trial in the suit for permanent injunction. The court vested with authority to transfer a matter has no authority to direct a common evidence to be recorded. It is the discretion of the court where two or more suits are pending to take a decision in that regard.

12. The next purpose of seeking transfer of the suit is to avoid conflicting decisions. If the pleadings in both suits are available before



the Court exercising authority under Section 24 CPC, a Court can examine whether the dispute involved in both matters is common or not. If it appears that the dispute is substantially the same, one suit can be transferred to the other Court where the other matter is pending. Insofar as trying both matters together may not prejudice the interest of the parties in the other matter, except for the delay that may occur sometimes. It is only when a court takes a decision that a common evidence shall be recorded in both matters, the interest of the parties in both matters shall be taken care before taking any decision thereof and in such event all the parties to both matters shall be heard. But insofar as transferring a case which is substantially similar or same to the other matter between the same parties or common parties involving common questions is concerned, there is no need to hear the parties to the other suit, for mere purpose of transferring one suit.

13. As such, in the present case, the Court ought not to have insisted the petitioner to implead all the parties in the other suit and give them notice. As such, the order impugned in the revision petition is liable to be set aside.

14. Accordingly, the revision petition is allowed by setting aside the impugned order dated 04.08.2022 in TOP No.4 of 2022 on the file of the court of Principal District Judge, Visakhapatnam is directed to proceed with



the disposal of the petition after hearing both sides. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

B.S.BHANUMATHI, J

Dt. 22-06-2023

PNV