

(1995) 08 AP CK 0002

Andhra Pradesh High Court

Case No: Tr. C.M.P. No. 61 of 1994

T. Ramamohana Rao

APPELLANT

Vs

Ragati Ramaraju

RESPONDENT

Date of Decision: Aug. 1, 1995

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (1995) 2 ALT 741

Hon'ble Judges: Y.V. Narayana, J

Bench: Single Bench

Advocate: C. Obulapathi Chowdary, for the Appellant; None, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Y.V. Narayana, J.

The appellant in A.S. No. 129 of 1991 on the file of the learned III Addl. District Judge, Visakhapatnam filed this Transfer C.M.P. seeking transfer of the said appeal to this High Court to be heard along with A.S. No. 1150 of 1993 pending in this High Court.

2. Necessary facts of the case, in brief, are as follows: The petitioner herein filed O.S. No. 422/83 on the file of the I Addl. Subordinate Judge, Visakhapatnam against the respondent and others for specific performance of sale agreement for sale of a house. The respondent filed O.S. No. 72 of 1984 on the file of the I Addl. Subordinate Judge, Visakhapatnam against the petitioner herein for mesne profits. The learned I Addl. Subordinate Judge tried both the suits together and disposed of the same by a common judgment dated 4-7-1991 dismissing the suit O.S. 422/93 filed by the petitioner herein and decreeing the suit O.S. 72/84 filed by the respondent against the petitioner herein. Aggrieved by the said common judgment, the petitioner herein preferred appeals before the District Court, Visakhapatnam. The appeal

preferred against OS. No. 422 of 83 was numbered as A.S. No. 128 of 1991 and the appeal preferred against O.S. No. 72/84 was numbered as A.S. No. 129/91. A.S. No. 129/91 was made over to the III Addl. District Judge, Visakhapatnam for disposal. While both the appeals are pending, the respondent raised an objection that the District Court had no pecuniary jurisdiction to entertain the appeal A.S. No. 128 of 1991. Then the District Court returned the Memorandum of Appeal A.S. No. 128/91 for presentation before the Competent Court. Then the petitioner herein filed the appeal A.S. No. 128/91 in this Court which was numbered as A.S. No. 1150 of 1993, which is still pending. Since the subject matter in A.S. No. 1150/93 pending in this Court and the subject matter in A.S. No. 129/91 pending before the III Addl. District Court is one and the same and since both appeals arise out of the common judgment and the evidence is common, the petitioner herein filed this Tr.C.M.P. to transfer A.S. No. 129/91 from the III Addl. District Court, Visakhapatnam to the file of this Court to be heard along with A.S. No. 1150/93 which is pending, to avoid multiplicity of proceedings and to avoid the possibility of passing conflict decisions in the appeals.

3. While admitting this Tr.C.M.P., this Court ordered notice. Though notice was served on the respondent, he was neither represented by any counsel nor appeared in person.

4. Having gone through the averments in the affidavit filed in support of the Tr.C.M.P., and in view of the fact that both the appeals i.e., A.S. No. 129 / 91 on the file of the III Addl. District Judge, Visakhapatnam and A.S. No. 1150/93 on the file of this Court arise out of common judgment and since the evidence was common, it is just and proper to hear both the appeals together.

5. In the result the Tr.C.M.P. is allowed. A.S. No. 129/91 on the file of the III Addl. District Judge, Visakhapatnam is withdrawn from the file of that Court and transferred to this Court to be heard along with A.S. No. 1150 of 1993. No Costs.