

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.795 of 2014

ORDER:

This petition is filed to withdraw O.P.No.61 of 2014 from the file of Senior Civil Judge, Narasapuram, West Godavari District, and transfer the same to Family Court, City Civil Courts, Hyderabad.

2. Wife filed this petition contending that her marriage was performed with respondent on 31.08.1996 at Narasapuram and she gave birth to a female child and due to serious differences and harassment, she is now staying at Hyderabad and respondent-husband filed O.P.No.61 of 2014 for dissolution of marriage at Narasapuram with false and fictitious grounds. She contended that she is working in a private firm and it is difficult for her to travel long distance of more than 558 kms. for the purpose of defending O.P.No.61 of 2014 at Narasapuram and that she is a helpless lady and by taking her convenience, O.P.No.61 of 2014 filed by respondent may be transferred to Family Court, Hyderabad.

3. Respondent appeared in person and he filed counter-affidavit, disputing the affidavit averments of petitioner and contended that petitioner is native of Narasapuram and she engaged Advocate to defend her in O.P.No.61 of 2014 and so far no counter is not filed in that O.P. and he is a practicing Advocate at Amalapuram and if the O.P. is transferred to Family Court, Hyderabad, where physical presence of parties is necessary, it will effect his profession at practicing place. He further contended that he is a diabetic patient and on these grounds he opposed the petition and prayed for dismissal of transfer C.M.P.

4. Heard arguments.

5. Both sides submitted their arguments in support of respective contentions raised in the affidavit and counter-affidavit.

6. Now the point that would arise for my consideration in this transfer C.M.P. is:

Whether there are any grounds for transfer of O.P.No.61 of 2014 from the file of Senior Civil Judge, Narasapuram, West Godavari District to Family Court, City Civil Court, Hyderabad?

POINT :

7. I have perused the material papers including the affidavit, counter affidavit.

8. As seen from the material, divorce O.P.No.61 of 2014 is filed before Senior Civil Judge, Narasapuram, where physical presence of parties is not necessary for each and every adjournment unlike in a Family Court. As seen from the affidavit of petitioner and also counter of respondent, petitioner herein has already engaged an Advocate at Narasapuram and she is defending her case through him. From the submissions of respondent, counter is not yet filed and no conciliation proceedings have taken place. According to petitioner, she is now staying at Hyderabad and working in a private firm. Considering the facts of the case, contentions and rival contentions of both parties, I feel that this transfer C.M.P. can be dismissed directing the Senior Civil Judge, Narasapuram, to expedite the trial, giving liberty to petitioner herein to apply for payment of legal expenses and other costs as per the provisions of Hindu Marriage Act, in which case respondent herein shall bear the required costs.

9. For these reasons, transfer C.M.P. is dismissed directing the Senior Civil Judge, Narasapuram, to dispose of O.P.No.61 of 2014 as expeditiously as possible, preferably within six months from the date of receipt of this order, without insisting the presence of petitioner herein for each and every adjournment except at the time of giving evidence. Further, if petitioner feels any inconvenience even for giving evidence personally at Narasapuram, she is at liberty to apply for appointment of Advocate Commissioner, in which case respondent herein agreed to bear the expenses. No costs.

10. Miscellaneous Petitions pending, if any, shall stand dismissed.

S. RAVI KUMAR, J

26th March 2015.

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