

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CMP.No.362 of 2013

&

Tr.CMP.No.415 of 2013

Date:03.03.2015

Between:

Vasudeva Rao Challa

..... Petitioner.

AND

Challa Lalitha

....Respondent.

The Court made the following:

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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Tr.CMP.No.362 of 2013

&

Tr.CMP.No.415 of 2013

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COMMON ORDER:

Tr.CMP No.362/2013 is filed to withdraw Family Court O.P.No.182/2013 from the file of Family Court, Gutnur and transfer to Family Court, Secunderabad.

Tr.CMP No.415/2013 is filed by wife to transfer O.P.No.195/2012 from Family Court, Secunderabad to Family Court, Guntur.

2. Advocate for husband submitted that O.P filed by husband was earlier in point of time and trial has already commenced, and it is coming for cross-examination of P.W.1 but subsequently, wife filed O.P.No.182/2013 before Family Court, Guntur for restitution of conjugal rights.

It is submitted that as per Section 21-A of Hindu Marriage Act, in a similar situation, the Court has to transfer the case filed later to the Court where earlier petition was pending. As seen from the material papers, O.P filed by wife is later in point of time and it is still at the stage of service of notice, whereas the O.P filed by husband has already commenced trial and it is at the stage of cross-examination of P.W.1.

3. I have perused material papers. From a perusal, the fact remains that both the cases have to be tried by one Court to avoid conflicting opinions, because the contentions and rival contentions of both parties is one and the same in both the petitions and the evidence to be adduced on behalf of the parties would be also similar. Since Section 21 (A) of Hindu Marriage Act mandates to transfer the later case to the Court where the previous case is pending, the request of the husband for transfer of O.P from Guntur Court to Secunderabad Court has to be considered.

3. Advocate for husband relied on a decision of Madhya Pradesh High Court reported in **LILA SAHU vs. KAILASH NARYAN SAHU**^[1], wherein in a similar set of facts, the later case was transferred to the place where previous case is pending. When Section 21-A of the Act clearly mandates to meet such a situation, the request of husband for transfer of O.P. filed by wife, which is later in point of time to Family Court Secunderabad to be tried along with O.P. No.195/2012 has to be considered.

4. Accordingly, Tr.CMP.No.362/2013 is allowed withdrawing O.P.No.182/2013 from Family Court, Guntur and transferred to Family Court Secunderabad to be tried along with O.P.No.195/2012. Consequently, Tr.CMP No.415/2014 is dismissed. Family Court, Secunderabad shall dispose of both the cases, within six months from the date of receipt of the records. No costs.

5. As a sequel, miscellaneous petitions, if any pending in these Tr.CMPs, shall stand disposed of.

JUSTICE S. RAVI KUMAR

Date:03.03.2015

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[\[1\]](#) LAWS(MPH)-1990-11-24