

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.749 of 2014

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ORDER:

This petition is filed to withdraw O.P.No.1137 of 2014 from the file of Family Court, L.B. Nagar, Ranga Reddy District and transfer the same to Senior Civil Judge, Nagarkurnool, Mahaboobnagar.

2. Heard arguments.

3. Petitioner is respondent in O.P.No.1137 of 2014 which is filed for maintenance by respondent herein, daughter-in-law of petitioner herein. Petitioner/husband filed his affidavit disputing the relationship and contended that he is a senior citizen suffering with diabetes, Hypertension, orthorities and also with old age ailments, therefore it is difficult for him to travel a distance of 250 KMs to defend O.P filed by respondent herein and for these reasons he prayed for transfer of O.P.No.1137 of 2014 from Family Court, Ranga Reddy to Senior Civil Judge, Nagarkurnool.

4. Other side opposed the petition. According to the counter, petitioner herein is a practicing advocate and that husband of respondent was suffering with HIV and for that reason they have decided not to give birth to any children, as it would effect the children. She further contended that she filed DVC and also gave a complaint in Saroornagar Police Station and petitioner is attending for these cases in Hyderabad Courts and that it makes no difference for traveling a distance of 245 or 250 KMs. Hence, the request of petitioner for transfer cannot be considered.

5. Heard arguments.

6. Advocate for petitioner submitted that petitioner is completely denying the relationship between the respondent herein and his son and maintenance petition is also filed after 20 years of the alleged marriage. She submitted that it is difficult for petitioner to travel all the way from Mahaboobnagar to Hyderabad for defending this case and petitioner's wife is also suffering with old age ailments and he has to look after the welfare of his wife.

7. On the other hand advocate for respondent submitted that respondent is ailing with some diseases including Kidney problem and it is difficult for her to travel from Hyderabad to Mahaboobnagar, and further, presence of petitioner is not necessary for each and every adjournment and petitioner can attend the Court at the time of giving evidence or if any difficulty is there he can take steps for recording his evidence at his residence, therefore there are no grounds for transfer of O.P. filed by respondent herein.

8. I have perused the material papers filed along with this transfer O.P. The objection with regard to relationship between the parties cannot be decided in this application and it is a matter to be decided in the main O.P., which is filed for maintenance. Now the only point that has to be seen is about the convenience of the parties. Admittedly, respondent herein filed a DVC at Hyderabad and also gave a complaint in Saroornagar Police Station in respect of some offences and petitioner is attending in connection of those two cases.

9. As seen from the cause title of the transfer O.P., petitioner is an advocate by profession. So, as rightly pointed out

by advocate for respondent, petitioner being advocate, who is pensioner also, he can take steps for recording his evidence by way of advocate commissioner, if necessary.

10. Considering the contentions and rival contentions of both parties, I feel that petition can be disposed of by directing the trial Court to decide the matter in a fixed time by dispensing with the presence of petitioner herein for each and every adjournment.

11. Accordingly, this Transfer Miscellaneous Petition is dismissed directing the Family Court, Ranga Reddy District at L.B Nagar to dispose of O.P.No.1137 of 2014 within a period of eight (08) months from the date of receipt of this order by dispensing with the presence of petitioner herein for each and every adjournment. However, petitioner shall appear as and when the Court below feels that his physical presence is necessary for any specific purpose. No costs.

Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 06-02-2015

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