

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

TRANSFER C.M.P.NO.613 OF 2014

ORDER:

This Transfer C.M.P. is filed by the petitioner-wife against the respondent-husband for transfer of O.P.No.71 of 2012 filed by the respondent-husband, which is pending on the file of the Senior Civil Judge Court at Peddapuram, East Godavari District to the Court of any Senior Civil Judge at Rajahmundry, East Godavari District.

It is the case of the petitioner that the marriage of the petitioner was performed with the respondent on 21.05.2001 at Satyanarayana Swamyvari Temple at Rajahmundry as per Hindu caste customs and religious rites and the marriage was consummated and they were blessed with two children, who are minors and are residing with the petitioner. Due to some disputes that arose between both the parties, the petitioner is residing with her parents and when the respondent neglected to maintain the petitioner and her children, the petitioner filed M.C.No.25 of 2012 on the file of IV Additional Junior Civil Judge at Rajahmundry and the respondent is contesting the same. The respondent filed O.P.No.71 of 2013 on the file of the Senior

Civil Judge, Peddapuram, East Godavari District for dissolution of marriage and the petitioner filed counter in the said O.P. The petitioner filed Transfer O.P.No.394 of 2013 on the file of the District Court at Rajahmundry seeking transfer of O.P.No.71 of 2013 from the file of the Senior Civil Judge, Peddapuram to the file of Senior Civil Judge at Rajahmundry, East Godavari District. The said Transfer O.P. was dismissed by the District Judge, Rajahmundry on 07.07.2014 on the ground that the petitioner failed to place any material to show that there is threat to her life. In para-3 of the affidavit it is stated that infact, the marriage of the petitioner with the respondent took place at Rajahmundry and no cause of action arises at Peddapuram. Moreover, she has two minor children and she has to look after their welfare and it is very difficult for her to go to Peddapuram court to contest the proceedings in O.P.No.71 of 2013. It is also stated that the respondent is attending the court at Rajahmundry in connection with M.C.No.25 of 2012 filed by the petitioner and no prejudice would be caused to the respondent if the O.P. is transferred from Peddapuram to Rajahmundry.

Though notice is taken out to the respondent, it is returned with postal endorsement "incorrect name". It has to be seen that in the counter affidavit filed by the respondent in

Transfer O.P.No.394 of 2013 the name of the respondent was shown as K.V.V. Satyanarayana Murthy, whereas in the O.P., his name was shown as Kota Veera Venkata Satyanarayana Murthy. It shows that the respondent is avoiding to receive the notice. As such, it is deemed that the notice is served.

In this case it has to be seen that M.C.No.25 of 2012 filed by the petitioner under Section 125 Cr.P.C., is pending on the file of IV Additional Junior Civil Judge at Rajahmundry, East Godavari District and the respondent is attending the said court. It is stated by the petitioner that she has two minor children and she is residing with her parents at Rajahmundry and as such, it is very difficult for her to travel from Rajahmundry to Peddapuram.

In view of the fact that the averments made by the petitioner are not denied and the petitioner is having two minor children and is residing with her parents at Rajahmundry and in view of the decision of the Apex Court in **SUMITA SINGH VS. KUMAR SANJAY AND ANOTHER**^[1], in a suit filed by the husband, the wife's convenience must be looked at.

In view of the above facts and circumstances of the case, the Transfer C.M.P. is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY J.,

Dt.26.11.2015
TJS

[\[1\]](#)) AIR 2002 SC 396,