

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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TR.C.M.P.NO.53 OF 2015

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ORDER:

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This Transfer C.M.P. is filed by the petitioners for withdrawing O.S.No.424 of 2014 on the file of the XIV Additional District Judge, Vijayawada, Krishna District and transfer the same to the file of the Judge, Family Court, Eluru, West Godavari District.

The case of the petitioners is that the respondents herein filed O.S.No.424 of 2014 on the file of the XIV Additional District Judge, Vijayawada claiming damages at Rs.25,00,000/- against the petitioners. The first petitioner is the wife and first respondent is the husband. Their marriage was performed on 03.01.2013 in Kranti Kalyana Mandapam, Eluru according to Hindu marriage customs. At the time of marriage, the parents of the first petitioner gave an amount of Rs.10,00,000/-, 100 sovereigns of gold, 16 kgs., of silver and also 10 acres of land. After their marriage, the first petitioner joined with her in-laws. Thereafter, the first respondent and his parents harassed the first petitioner for additional dowry. The first petitioner gave a complaint against the respondents and the same was

registered as a case in Cr.No.10 of 2014 on the file of Womens' Police Station, Eluru under Section 498-A, r/w 34 of I.P.C. Thereafter the first petitioner filed D.V.C.No.27 of 2014 on the file of the II Additional Judicial Magistrate of I Class, Eluru, West Godavari District against the first respondent and his parents and the same is pending. It is also the case of the petitioners that the first petitioner is staying with her parents at Eluru, West Godavari District and it is difficult for her to travel from Eluru to Vijayawada. Respondent Nos.1 and 2 who are practicing Advocates are threatening the petitioners with dire consequences and abusing them in filthy language. Hence, this Tr.C.M.P. is filed.

The first respondent filed O.P.No.24 of 2014 on the file of the Judge, Family Court, Vijayawada seeking for decree of divorce against the first petitioner on the ground of cruelty. The first respondent also filed O.P.No.69 of 2014 on the file of the XIV Additional District Judge, Vijayawada for a direction to the petitioners to return A-schedule items. The first petitioner filed Tr.C.M.P.No.358 of 2014 before this Court seeking to withdraw O.P.No.69 of 2014 pending on the file of the Judge, Family Court, Vijayawada and transfer the same to the file of the Judge, Family Court, Eluru. The first petitioner also filed

Tr.C.M.P.No.359 of 2014 before this Court seeking to withdraw O.P.No.25 of 2014 on the file of the Judge, Family Court, Vijayawada and transfer the same to the file of the Judge, Family Court, Eluru. The first petitioner also filed OP.No.41 of 2014 on the file of the Additional Senior Civil Judge, Eluru. This Court vide common order, dated 21.10.2014 in Tr.C.M.P.Nos.358 and 359 of 2014 transferred O.P.Nos.25 of 2014 and 69 of 2014 from the file of the Judge, Family Court at Vijayawada to the Family Court at Eluru. Accordingly, the said three O.Ps., are pending in the Family Court at Eluru. Pending the above said O.Ps., on the file of the Judge, Family Court, Eluru, the first respondent filed O.S.No.424 of 2014 on the file of the XIV Additional District Judge, Vijayawada claiming damages.

The learned counsel for the petitioners submits that just because the above said O.Ps., filed by the first petitioner were transferred by this court from Vijayawada to Eluru, the respondents bore grudge against the petitioners and they are threatening them.

On the other hand, the learned counsel appearing for the respondents submits that the suit in O.S.No.424 of 2014 is filed by them against the petitioners, claiming damages for causing

defamation by the petitioners and at the option of the respondents, as per Section 19 (4) of C.P.C., the suit is filed at Vijayawada and now the same cannot be transferred. He also submits that since the defamation is within the court premises at Vijayawada and all the witnesses hail from Vijayawada it is convenient for the petitioners to come to the court at Vijayawada and it will be difficult for the respondents to travel to Eluru for disposal of the suit. He also submits that convenience of the witnesses have also to be taken into consideration while directing the transfer of the suit. In support of his contention, he relied on a judgment of the Supreme Court in **KULWINDER KAUR ALIAS KULWINDER GURCHARAN SINGH VS. KANDI FRIENDS EDUCATION TRUST AND OTHERS**^[1].

O.S No. 424 of 2014 is filed by the respondents against petitioners claiming damages of Rs.25 Lakhs. Respondents have to attend the Family Court in above matters. Admittedly, O.P.Nos.69 of 2014, 25 of 2014 and 41 of 2014 and D.V.C.No.27 of 2014 filed by the first petitioner are pending on the file of Family Court at Eluru, West Godavari District. As held by the Apex Court in **KULWINDER KAUR ALIAS KULWINDER GURCHARAN SINGH VS. KANDI FRIENDS EDUCATION TRUST AND OTHERS (Supra-1)** the convenience of the witnesses and the

parties have to be taken into account while transferring the Transfer C.M.Ps. The distance between Vijayawada and Eluru is not more than 65 KMs, as such it may not be difficult for the witnesses to attend the Court at Eluru. Petitioner stated that respondent Nos.1 and 2 are practicing advocates at Vijayawada. In this case, these Ops., and DVC case are pending before the Judge, Family Court at Eluru and the respondents are also attending the court at Eluru.

In view of above facts and circumstances, I am of the opinion that O.S.No.424 of 2014 is to be withdrawn from the file of the XIV Additional District Judge, Vijayawada and the same can be transferred to the Judge, Family Court, Eluru, West Godavari District. As far as the apprehension of the respondents is concerned, they are at liberty to move the Court below, seeking their examination through the Commissioner.

Accordingly, the Tr.C.M.P. is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.04.11.2015
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