

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.775 of 2014

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ORDER:

This petition is filed to withdraw O.P.No.68 of 2014 from the file of Senior Civil Judge, Hujurabad, Adilabad District and transfer the same to Senior Civil Judge, Mancherial, Adilabad District for disposal in accordance with law.

2 . Petitioner herein is wife and she filed her affidavit in support of transfer petition, according to which, her marriage with respondent was performed on 08.02.2006 and she was blessed with two male children and they are now 8 years and 4 years respectively. She stated that she lodged a complaint with P.S., Mandamarri complaining harassment, and thereafter, husband filed divorce O.P. before Senior Civil Judge, Hujurabad only with a view to harass her. She stated that she do not have any assistance from her family to accompany her to attend Senior Civil Judge's Court at Hujurabad and no prejudice would be caused to respondent, if O.P.No.68 of 2014 is transferred from Hujurabad to Mancherial and respondent is already appearing in Mancherial Court in connection of Crime No.164 of 2004. On these grounds, she prayed for transfer of O.P.No.68 of 2014 from Hujurabad to Mancherial.

3 . Respondent/husband filed counter-affidavit disputing the affidavit averments of petitioner/wife and he opposed the transfer application on the ground that petitioner filed a false complaint before Police, Mandamarri and it is only at the stage of investigation. He denied that he is appearing before Mancherial Court in connection of Crime No.164 of 2014. He contended that petitioner herein already appeared before Hujurabad Court in connection of divorce O.P. filed by respondent/husband and filed counter by engaging a counsel and that there are no grounds for transfer.

4. Heard both sides.

5 . Both side advocates submitted their argument supporting the contentions of their respective parties.

6. Now the point that would arise for my consideration is :

Whether any valid ground for transfer of O.P.No.68 of 2014 from Hujurabad to Mancherial of Adilabad District?

POINT :

7. As seen from the material papers, due to disputes both wife and husband are staying separately and husband filed divorce petition on the ground that wife developed illicit intimacy with one RMP doctor practicing at Hujurabad. As seen from the affidavit and counter affidavit, petitioner/wife already filed counter in divorce O.P. by engaging a counsel and defending the case. Admittedly, family O.P. is before Senior Civil Judge, Hujurabad, where the presence of parties is not necessary for each and every adjournment, unlike in family Court, because they can be represented by advocates. Here, as seen from the counter- affidavit, petitioner/wife has already engaged advocate at Hujurabad and defending O.P. and filed counter, therefore, the contention that it is difficult for her to appear before Hujurabad Court for each and every adjournment, cannot be accepted.

8. The other contention of advocate for petitioner is that respondent is already attending Mancherial Court in connection of 498-A case, therefore, there may not be any prejudice for respondent/husband, if this O.P.No.68 of 2014 is also transferred to Mancherial and in counter-affidavit respondent/husband stated that he is not attending Mancherial Court as the case is only at crime stage.

9. As rightly pointed out by advocate for respondent/husband at crime stage, appearance of accused may not be required, unless there is a specific direction of the Court to do so. As the main O.P. i.e., O.P.No.68 of 2014 is already ripe for trial, and as the presence of wife is not necessary for each and every adjournment, I feel that this petition can be disposed of by directing trial Court to expedite the hearing of O.P.No.68 of 2014 and dispose of the same within a specified time.

10. For these reasons, I am of the view that there are no grounds for withdrawing of O.P.No.68 of 2014 from Senior Civil Judge, Hujurabad to Senior Civil Judge, Mancherial, Adilabad District and the same is liable to be

dismissed.

11. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed directing the Senior Civil Judge, Hujurabad to dispose of O.P.No.68 of 2014 within six (06) months from the date of receipt of this order. No costs.

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

S. RAVI KUMAR, J

Date: 13-04-2015

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