

HONOURABLE SRI JUSTICE S.RAVI KUMAR

Tr.CMP.No.252 of 2014

ORDER:

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This petition is filed to withdraw Family Court O.P.No.1410 of 2011 from the file of Judge, Family Court, City Civil Court, Hyderabad and transfer the same to Family Court, Vijayawada, Krishna District on the ground O.P.No.248 of 2014 filed by petitioner for restitution of conjugal rights is pending in Family Court, Vijayawada. Husband contended to avoid conflicting judgments the present petition is filed, so that both the cases can be decided by one Court. He further contended that he is ready and willing to take back his wife to lead happy marital life. For that he filed O.P.No.248 of 2014 for restitution of conjugal rights before the Judge, Family Court, Vijayawada.

Wife filed counter disputing the affidavit averments of the petition. She contended that she has not received any notice in the petition filed for restitution of conjugal rights. It is further contended that she filed O.P.No.1410 of 2011 for dissolution of marriage and Family Court, Hyderabad, has conducted elaborate trial for more than three years and posted the matter for arguments and at that stage present petition is filed. It is contended at this stage, if O.P.No.248 of 2014 is clubbed, irreparable loss

and injury will be caused to her, and prayed for dismissal of the application.

Heard both sides.

Advocate for petitioner submitted that as both the cases have to be tried by one Court and as the husband is apprehending danger at Hyderabad the O.P. may be transferred to any place in between Hyderabad and Vijayawada like Suryapet, Nalgonda. Other side opposed the application and contended that present petition is filed only to avoid decision in O.P. filed by wife and that there are no such allegations in the affidavit filed in support of the transfer petition.

I have perused the material papers including counter-affidavit filed on behalf of the wife.

No doubt if both the cases are decided by one Court, conflicting decisions can be avoided but admittedly O.P. at Family Court, Hyderabad, is at the stage of arguments whereas the O.P. filed by husband is only at the stage of service of notice. As per Section 21-A (2)(b) of Hindu Marriage Act if there are two petitions presented in different District Courts the petition presented later shall be transferred to District Court in which earlier petition was presented for a common disposal. So, by invoking the powers under Section 24 C.P.c. r/w Section 21-A(2)(b) of Hindu Marriage Act, I feel that the O.P. filed by husband pending before Family Court, Vijayawada, can be withdrawn and transferred to Family Court, Hyderabad to

be tried along with O.P.No.1410 of 2011 pending before it to avoid conflicting decisions. Though there is no application from the wife for such a relief, I feel that the same can be granted by exercising the inherent powers.

Accordingly, the request of the husband for transfer of O.P.No.1410 of 2011 from City Civil Court, Hyderabad to Family Court, Vijayawada, is refused and O.P. filed by him pending before Family Court, Vijayawada in O.P.No.248 of 2014 is withdrawn and transferred to Family Court, City Civil Court, Hyderabad for disposal in accordance with law. The Family Court, City Civil Court, Hyderabad shall decide the matter within six weeks from the date of receipt of records.

Transfer Petition is ordered accordingly. Miscellaneous petitions, if any, pending in this petition, shall stand closed.

JUSTICE S.RAVI KUMAR

Dt.12th March, 2015

PNV