

**HONOURABLE SRI JUSTICE S.RAVI KUMAR**

**Tr.CMP.No.489 of 2014**

-

**ORDER:**

This transfer petition is filed to withdraw HM.OP.No.59 of 2013 from the file of Principal Senior Civil Judge, Nandyal, Kurnool District and transfer the same to Senior Civil Judge, Markapur, Prakasam District.

Wife filed this application contending that their marriage took place on 17.02.2012 and due to differences, both of them are living separately and the respondent herein filed H.M.O.P.No.59 of 2013 for restitution of conjugal rights before Senior Civil Judge, Nandyal and it is difficult for her to travel from Markapur to Nandyal, which is a four hours journey and requested for transfer of O.P. from Nandyal to Markapur.

Heard both sides.

Advocate for petitioner submitted that it is difficult for the petitioner/wife to travel all the way from Nandyal to Markapur for defending HM.O.P.No.59 of 2013, therefore by taking her convenience into consideration O.P., may be transferred.

Other side opposed and it is submitted that Section 498-A IPC case is also pending at Nandyal and there are no tenable grounds for transfer of the O.P.

I have perused the material papers filed along with the transfer petition.

The marriage O.P. is pending before Senior Civil Judge, Nandyal and unlike Family Court, physical presence of parties is not necessary for each and every adjournment and they can be represented by Advocate.

Admittedly, petitioner has already engaged advocate and defending the O.P. and Section 498-A IPC case is also pending at Nandyal. Therefore her contention that it is convenient for her at Markapur cannot be accepted.

Advocate for petitioner submitted that Court below is insisting presence of the petitioner for every adjournment and requested to dispense with her presence.

As observed above, physical presence of the parties is not necessary in the Senior Civil Judge's Court unlike in Family Court as they can be represented by Advocates and only for particular dates like at the time of conciliation and at the time of giving evidence their physical presence is necessary.

However considering the submissions of counsel for petitioner, this Transfer O.P. is dismissed with a direction to the Court below not to insist for physical presence of the wife for each and every adjournment. However, she shall appear as and when her physical presence is necessary for any specific purpose. No costs.

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

---

JUSTICE S.RAVI KUMAR

Dt.7<sup>th</sup> April, 2015

PNV