

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

TR. C.M.P. No. 709 of 2014

ORDER:

This Tr.C.M.P. is filed seeking to transfer O.P.No.29 of 2014 from the Court of the Senior Civil Judge, Narsipatnam to the Court of the Senior Civil Judge, Bhimavaram.

The case of the petitioner is that her marriage with the respondent took place on 16.02.2004, and out of wedlock, they were blessed with two female children. Thereafter, the respondent and his parents started harassing her for additional dowry. The respondent also developed illegal intimacy with another lady and neglected to maintain the petitioner and her children. Though the matter was placed before the elders, the respondent did not heed to their advice. Then, she filed M.C.No.33 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Bhimavaram, against the respondent for maintenance. As a counter blast to the same, the respondent filed O.P.No.29 of 2014 on the file of the Senior Civil Judge, Narsipatnam for restitution of conjugal rights with false and frivolous allegations. It is also the case of the petitioner that she is an illiterate woman, she is now staying in the house of her parents, she has no avocation to maintain herself and her children, her second daughter has been suffering from Asthama and Anemia and she has to be taken to hospital frequently, and there is a threat to her life in the hands of the respondent and his people. In view of the same, she is not in a position to go to Narsipatnam for contesting the O.P.No.29 of 2014 filed by the respondent. Hence, the Tr.C.M.P.

Notice taken out through Court, on the address given by the respondent in O.P.No.29 of 2014 filed by him, was returned with an endorsement "party absent" and the notice sent by the learned counsel for the petitioner was also returned with an endorsement "not known". When the notice was sent to the address given by the respondent in

O.P.No.29 of 2014 filed by him, as per Section 27 of the General Clauses Act, 1897, the notice is deemed to be served on the respondent. Further, though stay of further proceedings in O.P.No.29 of 2014 filed by the respondent was granted by this Court on 17.07.2015, the respondent did not choose to appear before this Court.

In view of the above and in the facts and circumstances stated in the affidavit filed in support of the petition, I am of the opinion that O.P.No. 29 of 2014 be withdrawn and transferred from the Court of the Senior Civil Judge, Narsipatnam to the Court of the Senior Civil Judge, Bhimavaram.

Accordingly, the Tr.C.M.P. is allowed. There shall be no order as to costs.

Consequently, interim stay granted by this Court on 17.07.2015 is vacated and miscellaneous petitions, if any, pending in the Tr.C.M.P. shall stand dismissed.

A. RAJASHEKER REDDY, J.

17th November, 2015
cbs

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