

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.723 of 2014

ORDER :

This petition is filed to withdraw O.P.No.68 of 2014 from the file of Senior Civil Judge, Sircilla, Karimnagar District, and transfer the same to Additional Senior Civil Judge, Luxettipet, Adilabad District.

2. Petitioner herein is wife and she filed this transfer C.M.P. on the ground that she is residing at her parents' house from 30.06.2013 and that she lodged a complaint in Adilabad for the offence under Section 498-A IPC and also filed M.C.No.3 of 2014 before Judicial First Class Magistrate, Luxettipet, Adilabad District and respondent-husband filed O.P.No.68 of 2014 for restitution of conjugal rights to harass her and the O.P. is at the stage of trial and no prejudice would be caused to husband if the O.P. is transferred to Luxettipet as it is convenient for her.

3. Respondent-husband filed counter disputing the affidavit averments of petitioner and according to his affidavit, the distance between Sircilla and Luxettipet is about 130 KMs. and he is staying at Hyderabad and if the case is transferred to Luxettipet, he has to travel 220 KMs. for the purpose of prosecuting his case. It is further contended that since the matter is pending before the Senior Civil Judge's Court, parties presence is not necessary for each and every adjournment, only at the

time of giving evidence she has to come, therefore, the contention that it is inconvenient for her to travel long distance is not tenable.

4. Heard arguments.

5. Both advocates have submitted their arguments in support of respective contentions of their parties. I have perused the material papers including the counter affidavit filed on behalf of respondent. The only ground on which wife sought for transfer of the O.P. is that she has no male assistance to travel such a long distance to defend the O.P. But, as rightly pointed out by other side, presence of petitioner is not necessary for each and every adjournment and she can be represented by an Advocate since the matter is pending before Senior Civil Judge's Court and not before a Family Court. Further, as seen from the counter, respondent is staying at Hyderabad and if the O.P. is transferred to Luxettipet, it would be far away for him to travel all the way to Luxettipet. Advocate for petitioner submitted that at least O.P. may be transferred to Manchirial as it would be convenient for both parties. But as seen from the record as the presence of parties is not required for each and every adjournment, this transfer C.M.P. can be disposed of directing the Court below to dispose of O.P.No.68 of 2014 within stipulated time. As rightly pointed out by other side, presence of petitioner is required only at the time of giving evidence and for the sake of one adjournment, the request of petitioner to

transfer O.P.No.68 of 2014 itself in my view is not tenable. Further, if really wife feels that it is inconvenient to attend the Court even for giving evidence, she can avail the provision of C.P.C. for appointment of Commissioner to record her evidence at her residence and approach the Court below with such a request. For these reasons, I am of the view that there are no grounds for transfer of O.P.No.68 of 2014 and is liable to be dismissed.

6. Accordingly, transfer C.M.P. is dismissed directing the Senior Civil Judge, Sircilla, to dispose of O.P.No.68 of 2014 within six months from the date of receipt of the order. No costs.

7. Miscellaneous Petitions, if any, shall stand closed.

S. RAVI KUMAR, J

9th February 2015.

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