

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.536 of 2014

ORDER :

This petition is filed to withdraw F.C.O.P.No.72 of 2012 from the file of Family Court, Vizianagaram, and transfer the same to Family Court, Visakhapatnam.

2. Petitioner-wife filed this petition and according to her affidavit, she is working as NMR casual employee at Thotapalli Barrage, Parvathipuram and residing at Visakhapatnam. She contended that respondent-husband filed F.C.O.P.No.72 of 2012 for restitution of conjugal rights and she is a working women, therefore, it is difficult for her to attend Vizianagaram and it will be easy for her to attend Family Court, Visakhapatnam as she is staying there and respondent may not have any problem to attend Family Court, Visakhapatnam, as he is a pensioner and retired from defence service. She further contended that she filed this transfer C.M.P. on the ground of her convenience and she is entitled for the same.

3. Respondent has not filed any counter disputing the affidavit averments.

4. Heard arguments.

5. Advocate for respondent submitted that respondent is a retired defence employee and he is a handicapped person and as per the certificate issued by Army Hospital,

he has 70% disability and it is difficult for him to undertake journey. He further submitted that as per the Medical Certificate, respondent cannot walk independently and he need assistance even for walking, therefore, it is difficult for him to travel from Vizianagaram to Visakhapatnam. He submitted that petitioner is working at Thotapalli Barrage, near Parvathipuram and she is travelling from Visakhapatnam to Parvathipuram crossing Vizianagaram to reach Parvathipuram and she may not have any inconvenience in attending the Court at Vizianagaram because Vizainagaram is on the way to her work place from the place of her residence, on the other hand, it is highly inconvenient for respondent to go to Visakhapatnam with 70% disability.

6. As seen from the record, the only ground urged for transfer is convenience of petitioner, but as seen from her affidavit she is working at Thotapalli Barrage, Parvathipuram, and residing at Visakhapatnam. Admittedly, to go to Parvathipuram, one has to cross Vizainagaram and when petitioner is travelling from Visakhapatnam to Parvathipuram for the purpose of job by crossing Vizainagaram where the present O.P. for restitution of conjugal rights is filed, the contention of petitioner that it is inconvenient for her to attend Vizainagaram cannot be accepted. Further, when husband is disabled by 70% and as per Medical Certificate, he cannot independently walk, it is highly

difficult for him to undertake journey from Vizainagaram to Visakhapatnam for the purpose of O.P. filed for restitution of conjugal rights. Considering these aspects, I am of the view that request of petitioner for transfer is not tenable and as such, petition is liable to be dismissed.

7. Accordingly, transfer C.M.P. is dismissed. No costs.

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

S. RAVI KUMAR, J

16th February 2015.

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