

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.472 OF 2015

ORDER:

This transfer petition is filed seeking transfer of HM.OP.No.103 of 2015 pending on the file of Family Court-cum-IX Additional District Judge, East Godavari District, Rajahamundry to the Family Court, Secunderabad.

The case of the petitioner is that her marriage with the respondent was performed on 17.02.2012 at East Godavari District as per Hindu rites and customs and that after marriage since she was subjected to neglect and ill treatment by the respondent and his family, she filed MC.No.36 of 2015 before the Family Court, Secunderabad. Meanwhile, the respondent filed the HM.OP.No.103 of 2015 under Section 9 of Hindu Marriage Act before the Family Court-cum-IX Additional District Judge, East Godavari District, Rajahamundry. The grievance of the petitioner is that for attending the Court at Rajahamundry she requires a person to accompany her as she is having a small baby; that Rajahmundry is more than 450 K.Ms away from Hyderabad and that it is difficult to attend the Court at Rajahmundry for every date of adjournment along with her daughter as it involves both physical and financial burden. As such, the petitioner sought transfer of HM.OP.No.103/2015 from the Family Court-cum-IX Additional District Judge, East Godavari at Rajahamundry to the Family Court, Secunderabad.

The respondent filed counter denying all the allegations made against him and also opposed the transfer of HMOP filed by him.

In the present case the petitioner is staying with her parents along with her infant daughter and it will not be possible for her to attend the Court at Rajahamundry without any male assistant, to defend herself in the HMOP filed by the respondent. More so,

maintenance case filed by the petitioner is already pending on the file of the Family Court, Secunderabad and the respondent has to attend the same. Further, the Apex Court in ***Sumita Sing v. Kumar Sanjay and another***^[1] held that in transfer of matrimonial proceedings initiated by the husband against wife, it is the convenience of wife that has to be looked at.

In view of the aforesaid facts and circumstances, the transfer petition is allowed and the HM.OP.No.103 of 2015, pending on the file of Family Court-cum-IX Additional District Judge, East Godavari District, Rajahmundry is transferred to the Family Court, Secunderabad. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

04.12.2015
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^[1] AIR 2002 SUPREME COURT 396