

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.10 of 2015

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ORDER:

This petition is filed to withdraw O.P.No.195 of 2014 from the file of Principal District Judge, West Godavari, Eluru and transfer the same to Family Court, West Godavari, Eluru or any other competent District Court for disposal in accordance with law.

2. Petitioner herein is wife and she filed her affidavit in support of the petition. According to her affidavit averments, she filed O.P.No.1006 of 2012 for restitution of conjugal rights and respondent herein filed O.P.No.195 of 2014 for divorce and her petition for restitution of conjugal rights was dismissed by the Principal District Judge, Eluru and contended if divorce O.P. filed by husband is also decided by the same Presiding Officer, it will cause detrimental to her interest. In the affidavit, observations of the trial Court that were made in O.P.No.1006 of 2012 are extracted and finally stated that she did not wish to attribute any malafides on the Presiding Officer, but in the interest of justice, she prayed for transfer.

3. Respondent filed a detailed counter disputing the affidavit averments of petitioner and contended that the findings given by the trial Court are binding on both the parties and the grounds urged for transfer are not tenable.

4. Heard both sides.

5 . Both side advocates submitted their arguments supporting the respective contentions of their clients.

6. I have perused the material papers including affidavit of petitioner and counter of respondent. As seen from the material, petition filed for restitution of conjugal rights and the petition filed for divorce were before the same Court.

But as seen from the submissions and material, the divorce O.P. was filed at the fag-end of the conclusion of the enquiry in O.P.No.1006 of 2012 and the trial judge proceeded with the O.P. filed for restitution of conjugal rights without taking up other O.P.No.195 of 2014 filed for divorce.

7. Now the contention of petitioner is since same Presiding Officer has already dealt with the matter and gave certain findings against petitioner herein, it is embarrassing for petitioner to proceed with the trial before the same Presiding Officer, which may be detrimental for her interest. In fact the Presiding Officer ought to have taken up this O.P also along with O.P.No.1006 of 2012 for restitution of conjugal rights because the allegations and counter allegations between the parties are almost similar and the evidence to be adduced was also common. Therefore, considering the facts and circumstances narrated in the affidavit and counter-affidavit and also to avoid embarrassment of both parties and Presiding Officer, I feel that the request of petitioner can be considered.

8. For these reasons, O.P.No.195 of 2014 is withdrawn from the file of Principal District Judge, West Godavari District, Eluru and transferred to Judge, Family Court, West Godavari, Eluru. Judge, Family Court, West Godavari shall dispose of O.P.No.195 of 2014 within six (06) months from the date of receipt of the records.

9. Accordingly, this Transfer Miscellaneous Petition is ordered. No costs. Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 16-04-2015

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