

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.Nos.370 and 374 of 2014

COMMON ORDER:

Transfer C.M.P.No.370 of 2014 is filed to withdraw H.M.O.P.No.146 of 2014 from the file of Family Court, Hyderabad, and transfer the same to Family Court, Vizianagaram.

2. Petitioner-wife filed this petition contending that she filed the above referred H.M.O.P. for dissolution of marriage and after filing of this H.M.O.P., she was shifted to her native place Vizainagaram and this H.M.O.P. was filed during her temporary stay at Hyderabad. She contended that she vacated the house at Hyderabad and shifted along with children to Vizianagaram, where aged parents are residing and took shelter there. She stated that after reaching Vizianagaram she also filed maintenance O.P.No.12 of 2014 before Family Court, Vizianagaram, and both the cases have to be tried by one Court and as she is residing at Vizianagaram, she prayed for transfer of H.M.O.P. filed by her from Hyderabad to Viziangaram. She further contended that it is difficult for her to travel long distance covering 760 Km. for the purpose of prosecuting H.M.O.P.

3. Respondent-husband filed counter disputing the affidavit averments of petitioner and contended that petitioner suppressed the material facts to gain sympathy

from this Court and that this transfer C.M.P. is filed without any merits. He contended that maintenance O.P. filed by petitioner i.e., O.P.No.12 of 2014 can be transferred from Vizianagaram to Hyderabad and for that he filed transfer C.M.P.No.374 of 2014, therefore, this petition is not maintainable.

4. Heard arguments.

5. Advocate for petitioner submitted that petitioner is presently prosecuting her B.Ed. course at Vizianagaram and as the maintenance O.P. filed by her is also pending at Vizianagaram, H.M.O.P.No.146 of 2014 filed by her in Family Court, Hyderabad, has to be transferred to Vizianagaram.

6. On the other hand, other side opposed the transfer C.M.P. and contended that the maintenance case pending before Vizianagaram Court can be transferred to Hyderabad.

7. I have perused the material papers including affidavit of petitioner and counter of respondent. Admittedly, petitioner is now staying at Vizianagaram and H.M.O.P.No.146 of 2014 is filed in Family Court, Hyderabad, only during her temporary stay at Hyderabad. It is also clear from the record that petitioner subsequently filed O.P.No.12 of 2014 at Vizianagaram, claiming maintenance and both these cases have to be tried by one Court to avoid conflicting opinions. As petitioner is now residing at Vizianagaram and prosecuting her B.Ed.

course, by taking her convenience into consideration, I feel her request for transfer of H.M.O.P.No.146 of 2014 from Family Court, Hyderabad, to Family Court, Vizianagaram, can be considered by directing the Family Court, Vizianagaram to dispense with the presence of respondent-husband for each and every adjournment.

8. For these reasons, H.M.O.P.No.146 of 2014 is withdrawn from Family Court, Hyderabad and transferred to Family Court, Vizianagaram, to be tried along with O.P.No.12 of 2014 pending there. The Family Court, Vizianagaram, shall dispense with the presence of respondent herein for each and every adjournment. However, he shall appear as and when his physical presence is necessary for any specific purpose.

9. Accordingly, transfer C.M.P. is allowed. No costs.

10. In view of the order passed in transfer C.M.P.No.370 of 2014, transfer C.M.P.No.374 of 2014 is dismissed. No costs.

11. Miscellaneous Petitions, if any, shall stand closed in both transfer C.M.Ps.

S. RAVI KUMAR, J

3rd March 2015.

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