

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.985 of 2015

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.21.02.2015 in Tr.OP.No.609 of 2014 on the file of Principal District Judge, Kadapa.

2. Petitioner herein is the respondent in the MOP.No.13 of 2014 filed by her husband on the file of Senior Civil Judge, Rajampet for Restitution of Conjugal Rights under Section 9 of Hindu Marriage Act, 1955.

3. Petitioner filed a petition, Tr.O.P.No.609 of 2014, seeking transfer of said MOP from the Court of Senior Civil Judge, Rajampet to the Court of Senior Civil Judge, Rayachoty alleging that she is employed at Rayachoty and she is taking care of a minor child and that the respondent and his family members are threatening the petitioner with the help of rowdy elements that they would not allow her to prosecute the MOP. She further alleged that there is no Presiding Officer in the Court of Senior Civil Judge at Rajampet and the disposal of the OP is getting delayed.

4. Counter-affidavit was filed by the respondent opposing the petition and denying the allegations made therein. He alleged that in case the MOP is transferred to the Court of Senior Civil Judge, Rayachoty, there is every possibility of petitioner threatening the witnesses and that the respondent may not be in a position to give evidence freely as there is every chance of attempts being made on his life by the petitioner and her relatives.

5. By order dt.21.02.2015, the Principal District Judge, Kadapa dismissed the said application. While admitting that there is no regular Presiding Officer at Rajampet, he stated that the Senior Civil Judge, Rayachoty is placed in full additional charge of the Court of

Senior Civil Judge, Rajampet and is conducting Court on every Monday at Rajampet. He held that if the petitioner is interested to get the case prosecuted diligently, she could have requested the Incharge Officer to take up the trial and there is nothing to show that she did so. He further held that merely because the petitioner is working at Rayachoty, that is not a ground to seek transfer of the case to the Court of Senior Civil Judge, Rayachoty and it is open to her to seek for appointment of an Advocate-Commissioner to record her evidence at the place of her choice by requesting the trial Court in that regard. He also took note of the allegation of the respondent that there is danger to his life if the case is transferred to the Court of Senior Civil Judge, Rayachoty, since the petitioner has great influence at Rayachoty. He ultimately gave a direction to the Incharge Officer to take up the trial of the MOP.No.13 of 2014 by giving it top priority.

6. Challenging the same this Revision is filed.

7. Even though notice in this revision was served on the respondent, none appeared on his behalf.

8. From the facts narrated above, it is clear that both the petitioner and respondent, are making allegations against each other that the other party is threatening them. It is also stated in the order of the Principal District Judge, Kadapa that there is no regular Presiding Officer at Rajampet where the MOP is pending.

9. In this view of the matter, it is not advisable to permit the OP to be proceeded with in the Court of Senior Civil Judge, Rajampet or to transfer the case to the Court of Senior Civil Judge, Rayachoty in view of the apprehension expressed by both parties on basis of threats by other party.

10. In the interest of justice, the MOP.No.13 of 2014 is transferred

from the Court of Senior Civil Judge, Rajampet to the Family Court, Kadapa and the said Court is directed to decide the same as expeditiously as possible.

11. The Civil Revision Petition is accordingly disposed of. There shall be no order as to costs.

12. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

11th August, 2015

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