

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.8 of 2015

ORDER :

This petition is filed to withdraw O.P.No.111 of 2012 from the file of Senior Civil Judge, Wanaparthi, Mahabubnagar District, and transfer the same to Family Court, Secunderabad.

2. Petitioner-wife filed this petition and she filed her affidavit in support of the petition and according to her affidavit, she earlier filed Transfer C.M.P.No.674 of 2012 for transfer of the very same O.P.No.111 of 2012 from Senior Civil Judge, Wangaparthi, Mahabubnagar District, to Family Court, Ranga Reddy District, and that petition was dismissed by observing that she need not attend the Court at Wanaparthi for each and every adjournment and she has to attend only at reconciliation and recording of her evidence in the Court and according to her affidavit, her Advocate did not inform her the stage of the case and subsequently, respondent-husband filed another O.P. i.e., Divorce O.P.No.11 of 2014 before the Senior Civil Judge, Wanaparthi, and that was transferred from Wanaparthi to Family Court, Secunderabad, and it is pending and that petitioner herein filed I.A.No.7100 of 2014 and 7101 of 2014 before Senior Civil Judge, Wanaparthi, to set aside the *ex parte* order passed in O.P.No.111 of 2012, therefore, both the matters have to be tried by one Court

and for that reasons, present transfer C.M.P. is filed to transfer O.P.No.111 of 2012 from Senior Civil Judge, Wanaparthi to Family Court, Secunderabad.

3. Heard arguments.

4. I have perused the material papers filed along with transfer C.M.P. Even from the affidavit of petitioner, O.P.No.111 of 2012 is not pending before Senior Civil Judge, Wanaparthi, only petitions for setting aside the *ex parte* decree in O.P.No.111 of 2012 are pending. Petitioner contends that respondent filed affidavit in O.P.No.111 of 2012 stating that the O.P. is filed for divorce though it was filed for restitution of conjugal rights and that he filed a false affidavit before the Court and that shows the conduct of respondent-husband. But the objection with regard to this aspect is a matter to be decided in the petitions filed to set aside *ex parte* decree, but this Court in a transfer C.M.P. cannot go into the correctness of the affidavit filed in O.P.No.111 of 2012 on the basis of which already some orders are passed. It is for the petitioner to agitate these grounds in appropriate proceedings while challenging the orders in O.P.No.111 of 2012. When this Court has already refused the very same relief in earlier Transfer C.M.P.No.674 of 2012, by an order dated 23.07.2012, petitioner filing this transfer C.M.P. for the same relief, particularly when the main O.P.No.111 of 2012 is not at all pending and only petitions to set aside the *ex parte* decree passed against petitioner are alone

pending, I am of the view that transfer C.M.P. is not maintainable.

5. Accordingly, transfer C.M.P. is dismissed as devoid of merits. No costs.

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

S. RAVI KUMAR, J

16th February 2015.

Note:

Issue C.C. in three days.

(b/o)
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