

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.21 of 2015

ORDER:

The petitioner herein who is the respondent in M.C.No.9 of 2014 on the file of Family Court, Tirupati seeks to transfer the said MC to Additional Family Court, Hyderabad to be tried along with O.P.No.1209 of 2013.

2) Petitioner's case is that he filed O.P.No.1209 of 2013 before the Additional Family Court, Hyderabad seeking divorce against the 1st respondent and the respondents who are wife and minor daughter filed M.C.No.9 of 2014 before the Family Court, Tirupati seeking maintenance. While so, earlier, respondent No.1 herein filed Tr.CMP.No.203 of 2014 before the High Court seeking transfer of divorce OP No.1209 of 2013 from Additional Family Court, Hyderabad to Family Court, Tirupati to be tried along with M.C.No.9 of 2014 but the said petition was dismissed with a direction to respondent No.1 to attend Additional Family Court, Hyderabad and with a further direction to the petitioner herein to bear her to and fro expenses. The further case of the petitioner is that he underwent heart surgery in January, 2013 and subsequently his gallbladder was removed and due to his health problems he cannot travel to Tirupati to attend the maintenance case since R1 was directed by this Court to attend divorce OP at Hyderabad at the expense of petitioner herein if the M.C.No.9 of 2014 is transferred from Tirupati to the Additional Family Court, Hyderabad and tried along with divorce OP No.1209 of 2013, it will be convenient to both parties. Thus, he sought for orders.

3) Notice served on respondents, but there is no representation.

4) Heard.

5) The point for determination is:

"Whether there are merits in this petition to allow?"

6a) **POINT**: The record shows that earlier the first respondent herein filed Tr.CMP.No.203 of 2014 seeking transfer of O.P.No.1209 of 2013 from Additional Family Court, Hyderabad to Family Court-cum-V Additional District Judge, Tirupati to be tried along with M.C.No.9 of 2014. This Court considering the ailments of present petitioner declined to transfer the matter but however, directed the Additional Family Court, Hyderabad to dispose of O.P.No.1209 of 2013 as early as possible preferably within eight (8) months from the date of receipt of the order and also dispensing with the presence of first respondent herein for each and every adjournment. This Court further directed that the respondent/husband shall meet the to and fro travelling expenses of his wife as and when she appeared before the Family Court, Hyderabad in connection with O.P.No.1209 of 2013.

b) In view of the aforesaid order, it appears that present request of the petitioner is a reasonable one. Hence, keeping in view the ill-health of the petitioner herein, M.C.No.9 of 2014 pending on the file of Family Court, Tirupati can be transferred to Family Court, Hyderabad for trying along with O.P.No.1209 of 2014.

7) In the result, this Transfer Criminal Petition is allowed and M.C.No.9 of 2014 is withdrawn from the Family Court-cum-V Additional District Judge, Tirupati and transferred to Additional Family Court, Hyderabad to be tried along with O.P.No.1209 of 2013 on the condition that the petitioner shall meet the travelling expenses of first respondent/wife and her witnesses in M.C.No.9 of 2014. The Additional Family Court, Hyderabad is directed to dispose of M.C.No.9 of 2014 along with O.P.No.1209 of 2013 by dispensing with the presence of respondents herein for each and every adjournment except on the occasions when the Court consider their presence is necessary.

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

U. DURGA PRASAD RAO, J

Date: 02.04.2015

Murthy