

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.518 OF 2015

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ORDER:

This transfer petition is filed to transfer FCOP.No.1015/2015 from the file of the Family Court, City Courts, Hyderabad to the Court of Senior Civil Judge, Kovvur, West Godavari District.

The case of the petitioner is that her marriage with the respondent took place in the year 2007 in Rajasthan and thereafter they lived in Guntur for one year and thereafter shifted to Mumbai in 2008-2009, as the respondent got employment in Mumbai. They lived in Mumbai till 2014, and thereafter shifted to Hyderabad, as the respondent got employment in IBM Company. The petitioner gave birth to her first daughter in 2009 and second daughter in 2015. Her grievance is that as she gave birth to two female children the respondent started harassing her and sent her away to her parents' home in Nidadavolu, West Godavari District. It is further stated that the respondent has gone to USA and that he also filed FCOP No.1015/2014 before the Family Court, City Civil Courts, Hyderabad seeking divorce. Since the petitioner is not in a position to attend the Court at Hyderabad with her two children for defending the case and as she is not having any financial resource, she filed the present transfer petition.

The father of the respondent as a GPA holder of the respondent filed counter affidavit stating that petitioner was adamant and aggressive in her behaviour and she harassed his son both physically and mentally. It is also stated that the petitioner used to repeatedly go to her parents' house at Nidadavolu even after giving birth to two children and continued her non-cooperation and irresponsible behaviour in performing marital obligations and that in continuation of her ill desire she lodged a complaint against his son and that when police came to know the real facts reprimanded the petitioner and the petitioner herself withdrew the said complaint by writing letter dated 24.05.2015

and subsequently on 25.05.2015 the respondent returned to USA for job and that on 30.05.2015 the petitioner left Hyderabad for her parents house at Nidadavolu, West Godavari District and since then she is residing at her parents house. It is stated that on 21.06.2015, the petitioner send her elder daughter by name Diya Jain aged 5 years through her parents to Hyderabad and also stated that she won't look after her daughters maintenance. It is also stated that the petitioner used to abuse him and his wife in filthy language and that as the petitioner is issuing statements endangering life of his son, FCOP No.1015/2015 is filed seeking divorce. It is further stated that he has to attend and look after his wife who is aged 53 years and bed ridden and as such he is not in a position to attend the Senior Civil Judge's Court, Kovvur, West Godavari, Andhra Pradesh.

Learned counsel for the petitioner filed reply affidavit denying the averments in the counter filed by the respondent.

Learned counsel for the petitioner submits that FCOP.No.1015 of 2015 is filed by the father of the respondent as a GPA Holder seeking divorce on false and untenable grounds; that the respondent is residing at USA; that the petitioner has three months old baby and it is very difficult for the petitioner to travel about 500 K.Ms. from Kovvur to Hyderabad along with her months baby without any assistance.

On the other hand learned counsel for the respondent submits that the respondent is in USA and that his father who is aged 53 years cannot travel to Kovvur if the case is transferred to Kovvur and that he is having wife who is bedridden suffering from various ailments.

It is to be seen in the present case that admittedly the petitioner is residing at Nidadavolu along with her three months old baby where her parents are residing and it will be certainly very difficult for the petitioner to travel from Nidadavolu to Hyderabad along with her baby. Admittedly, the respondent is

staying at United States and the family OP is filed by his father who is aged 53 years and being a businessman he can well travel and attend the court at Kovvur.

The Apex Court in ***Sumita Sing v. Kumar Sanjay and another*** held that in transfer of matrimonial proceedings initiated by the husband against wife, it is the convenience of wife that has to be looked at.

In view of the aforesaid facts and circumstances and the Judgment rendered by the Apex Court in **Sumita Sing case (1 supra)**, I feel that it is a fit case to transfer the FCOP from City Civil Courts, Hyderabad to the Court of Senior Civil Judge, Kovvur, West Godavari District.

Accordingly, the petition is allowed, transferring the FCOP.No.1015 of 2015 from the file of Family Court, City Civil Courts, Hyderabad to the Court of Senior Civil Judge, Kovvur, West Godavari District. No order as to costs.

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

A.RAJASHEKER REDDY, J

12.11.2015

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