

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.356 of 2014

ORDER:

This petition is filed to withdraw F.C.O.P.No.43 of 2014 from the file of Family Court-cum-V Additional District Judge, Tirupati, and transfer the same to Family Court-cum-VI Additional District Judge, Nellore.

2. Husband filed this petition and according to his affidavit, present F.C.O.P. is filed by respondent-wife at Tirupati intentionally to harass petitioner. He contended that Tirupati Court has no jurisdiction to entertain F.C.O.P.No.43 of 2014, because as per the version of respondent-wife she is temporarily residing at Tirupati and she is permanent resident of Kavali, which is her parents place, therefore, F.C.O.P.No.43 of 2014 is to be withdrawn from Tirupati Court.

3. Other side has not filed any counter.

4. Heard arguments.

5. As seen from the material the main objection for transfer of F.C.O.P. from Tirupati to Nellore is that Tirupati Court has no territorial Jurisdiction to entertain F.C.O.P. filed by wife, for that petitioner-husband produced some material papers, like her evidence in D.V.C., which was also filed at Tirupati, and her affidavit filed in support of F.C.O.P. These contentions cannot be decided in a transfer C.M.P. and the objection with regard to jurisdiction is a defence available to respondent, which he has to

agitate and contend before Court below i.e., Family Court, Tirupati, on that ground he cannot seek transfer of F.C.O.P. by invoking Section 24 C.P.C.

6. For these reasons, the transfer C.M.P is dismissed giving liberty to petitioner to take this objection of jurisdiction before Court below and that the Court below shall consider the same on merits. No costs.

7. Miscellaneous Petitions pending, if any, shall stand dismissed.

S. RAVI KUMAR, J

10th March 2015.

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