

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.784 of 2015

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ORDER:

This Transfer CMP is filed by the petitioner/wife for transfer of FCOP.No.1579 of 2015, filed by the respondent/husband for restitution of conjugal rights, pending on the file of Additional Family Court, Visakhapatnam to the Senior Civil Judge Court, Amalapuram, East Godavari District.

The case of the petitioner is that her marriage with the respondent was performed on 04.07.2004 as per Muslim Traditions and customs at Amalapuram and out of their wedlock, they were blessed with two sons. Thereafter, the petitioner came back to her parents house at Allavaram of East Godavari District along with her two children due to the harassment of the respondent. The respondent filed FCOP No.1579 of 2015 on the file of the Additional Family Court, Visakhapatnam, seeking restitution of conjugal rights. The grievance of the petitioner is that her father is old aged and she cannot travel all the way 250 K.Ms. from Allavaram to Visakhapatnam, without male assistance and that she has no sufficient means to travel. As such she filed the present transfer petition.

Though notice is served, no counter affidavit is filed and there is no opposition from the respondent.

In the affidavit filed in support of this petition it is stated that the petitioner cannot travel from her village to Visakhapatnam along with her two children as it involves both physical and financial burden. In view of the same and in view of the Judgment rendered by the Apex Court in ***Sumita Sing v. Kumar Sanjay and***

another ^[1] wherein it was 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, I feel it appropriate to transfer FCOP.No.1579 of 2015 pending on the file of the Additional Family Court, Visakhapatnam to the Senior Civil Judge Court at Amalapuram, East Godavari district.

Accordingly, the transfer CMP is allowed and FCOP.No.1579 of 2015 pending on the file of the Additional Family Court, Visakhapatnam is transferred to the Senior Civil Judge's Court, Amalapuram, East Godavari District.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the transfer petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.01.2016

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^[1] AIR 2002 SUPREME COURT 396