

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.C.M.P. No.362 of 2015

ORDER:

This petition is filed by the petitioner-wife under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of O.P. No.83 of 2014 from the file of the Senior Civil Judge, Nagarkurnool, Mahbubnagar District, to the file of the Additional Family Court, City Civil Court, Hyderabad, to be tried along with O.P. No.650 of 2015, which is filed by the petitioner-wife against the respondent-husband for maintenance.

2. The case of the petitioner-wife is that her marriage with the respondent took place on 26.06.2011 as per Hindu rites and customs at Yashoda Gardens, near Ramalayam, Kukatpally, Hyderabad. Out of their wedlock, a male child was born on 01.05.2012. The respondent-husband harassed the petitioner-wife demanding for additional dowry and she was driven out of the marital house and she is living with her parents at Hyderabad. Thereafter, the respondent-husband filed O.P. No.83 of 2014 on the file of the Senior Civil Judge, Nagarkurnool, Mahabubnagar District, against the petitioner-wife for restitution of conjugal rights. The petitioner-wife states that she is not in a position to travel all the way from Hyderabad to Nagarkurnool due to financial problems and also due to her poor health condition. It is further stated that the respondent-husband is also a resident of Hyderabad and working in Margadarshi Marketing Private Limited, Eenadu Complex, Khairatabad, Hyderabad. Hence, the present petition is filed seeking transfer of O.P. No.83 of 2014 from the file of the Court of Senior Civil Judge, Nagarkurnool, Mahabubnagar District to the file of the Additional Family Court, City Civil Court, Hyderabad, where O.P. No.650 of

2015 filed by the petitioner-wife for maintenance is pending.

3. Though notice is issued, the same is returned with an endorsement that addressee is left without intimation.

4. Heard the learned counsel for the petitioner.

5. As per Section 27 of the General Clauses Act, 1897, when the notice is sent to the known address, unless the contrary is proved, the same is deemed to be served. More so, the endorsement is 'addressee is left without intimation' and the same is also deemed to be service of notice.

6. In view of the averments referred to above, which show that the respondent-husband is working at Hyderabad and the O.P. filed by the petitioner-wife is also pending on the file of the Court at Hyderabad, and as the petitioner is unable to travel from Hyderabad to Nagarkurnool, where O.P. No.83 of 2014 filed by the respondent-husband is pending, O.P. No.83 of 2014 be transferred from the file of the Court of Senior Civil Judge, Nagarkurnool to the file of the Additional Family Court, City Civil Court, Hyderabad.

7. Accordingly, this Transfer C.M.P. is allowed. There shall be no order as to costs.

8. As a sequel thereto, interim stay granted by this Court on 08.07.2015 is vacated and miscellaneous petitions, if any pending in this petition, shall stand closed.

A.RAJASHEKER REDDY, J

06.01.2016

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