

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.C.M.P.No.789 of 2015

ORDER:

This petition is filed to withdraw H.M.O.P.No.94 of 2015 from the file of Family Court, Visakhapatnam and transfer the same to Family Court, Guntur.

2. Wife filed this petition. According to her affidavit, her marriage with respondent was performed on 28.05.2011 at Sri Sri Sri Venkateswara Swamy temple, Vykuntapuram, Tenali, Guntur District, as per Hindu rites and caste custom. She stated that after marriage, she came to know that the respondent was employed as an accountant with a contractor but not as represented prior to marriage and differences arose between them. She stated that due to harassment, she lodged a complaint and police filed charge sheet in C.C.No.40 of 2013 before Judicial First Class Magistrate, Ponnur and that she filed DVC No.5 of 2013 before Judicial First Class Magistrate, Ponnur, which was allowed on 02.02.2015. She stated that respondent filed O.P for dissolution of marriage before Family Court, Visakhapatnam, though respondent is residing at Guntur, he filed the same at Visakhapatnam in order to harass her. She further stated that it is difficult for her to travel from Guntur to Visakhapatnam being a lady and that she has no source of income and that respondent is not paying the maintenance regularly. For these reasons, she prayed for transfer of O.P from Visakhapatnam to Guntur.

3. Respondent filed counter disputing the affidavit averments of petitioner and contended that criminal case ended in acquittal and DVC is also not pending before Ponnur Court. He further stated that divorce petition was filed in January 2015 and in that she was made ex parte in September 2015 and later she filed petition to set aside the ex

parte order, which was allowed in November 2015 and respondent herein was directed to lead the evidence and when he was about to file his chief affidavit as evidence, she filed the present petition concealing the same. He further contended that it is equally difficult for respondent to travel all the way to Guntur as the distance between Guntur and Visakhapatnam is 375 KMs.

4. Heard both sides.

5. From the affidavit, it is clear that petitioner herein is resident of Guntur and though it is specifically averred in the affidavit respondent herein is also resident of Guntur, the same was not denied by way of any counter-affidavit.

6. Advocate for petitioner submitted that the present stage of O.P before Family court, Visakhapatnam is at conciliation stage and no enquiry commenced and as the wife is finding it difficult to travel from Visakhapatnam to Guntur, her request may be considered.

7. On consideration of material on record including the affidavit of petitioner, which is not rebutted by way of any counter- affidavit, the request of wife for transfer of H.M.O.P.No.94 of 2015 from Family Court, Visakhapatnam to Family Court, Guntur is considered.

8. For these reasons, H.M.O.P.No.94 of 2015 is withdrawn from the file of Family Court, Visakhapatnam and transferred to Family Court, Guntur for disposal in accordance with law. However, in view of the difficulty expressed by respondent, Family Court, Guntur shall dispense with the presence of husband i.e., respondent herein for each and every adjournment. However, he shall appear as and when his physical presence is felt necessary for any specific purpose.

9. Accordingly, this Transfer Civil Miscellaneous Petition is ordered. No costs. Miscellaneous Petitions, pending in this petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 30-06-2016.

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