

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.144 of 2016

ORDER:

This petition is filed to withdraw O.P.No.327 of 2015 from the file of Judge, Family Court, City Civil Court, Hyderabad and transfer the same to Senior Civil Judge, Peddapuram, East Godavari District.

2. Wife filed this petition. According to her affidavit, her husband filed O.P.No.327 of 2015 before Family Court, Hyderabad seeking divorce, in the Family Court, Hyderabad, counseling process and other steps were already completed and after that, she is now residing at Peddapuram and she filed M.C.No.28 of 2015 before the Additional Judicial I Class Magistrate, Peddapuram, East Godavari District and also filed O.P.No.58 of 2015 under Section 9 of the Hindu Marriage Act before the Court of Senior Civil Judge, Peddapuram and as O.P. filed by husband is before Hyderabad Court, she is finding it difficult to attend the Family Court, Hyderabad as she had no employment, nor any income of her own and she is staying at Peddapuram on the mercy of her parents. She further stated that she has no brothers and male relatives to accompany her to Hyderabad to defend the case filed by the respondent. For these reasons, she prayed for transfer of O.P from Hyderabad to Peddapuram.

3. Respondent filed counter disputing the affidavit averments of the petitioner and contended that he is suffering from cancer and he was admitted in Indo-American Cancer Hospital, where surgery was performed in the month of April, 2014 and radiation and chemotherapy was administered during May to December, 2014 and again in September, 2015 he was admitted for Vascular problem and due to the health problems and his advanced age of 65 years, he is not in a position to undertake travel from Hyderabad to Peddapuram and sought for dismissal of the petition.

4. Heard both sides.

5. Both advocates submitted arguments supporting the respective contentions of their parties. Advocate for petitioner submitted that husband is financially sound, but intentionally not paying any maintenance to the wife and at least direction may be given to the husband to pay some amount towards maintenance in order to defend O.P. filed by the husband before Family Court, Hyderabad. He further submitted that for any reason, the request of the wife is not considered, at least her presence may be dispensed with before the Family Court.

6. On the other hand, learned counsel for respondent submitted that respondent is aged about 65 years and is suffering from cancer, therefore, it is highly difficult for him to undertake travel from Hyderabad to Peddapuram, if the case is transferred from Hyderabad.

7. Considering the submissions of both sides and also considering the ages of both parties, particularly age of the respondent and his ailment, I am of the view that instead of transferring case from Hyderabad to Peddapuram, ends of justice would be met, if the presence of the wife is dispensed with before the Family Court, Hyderabad and also giving liberty to her to file appropriate application before the Family Court, Hyderabad in the very same O.P.No.327 of 2015 for necessary legal expenses and interim maintenance and on filing such application, the Family Court shall consider the same without any delay.

8. For these reasons, while refusing request of the wife for transfer of O.P.No.327 of 2015 from Family Court, Hyderabad to Senior Civil Judge, Peddapuram, Family Court, Hyderabad is directed to dispense with the presence of wife i.e. petitioner herein for each and every adjournment. However, she shall appear as and when her physical presence is felt necessary by the Family Court for any specific

purpose. Petitioner is given liberty to approach the Family Court with appropriate application for necessary legal expenses and interim maintenance and on filing of such application, Family Court shall consider it and decide the same in accordance with law at an early date.

9. Accordingly, the Transfer Miscellaneous Petition is disposed of. No costs. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

S. RAVI KUMAR, J

Date: 20-06-2016
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HON'BLE SRI JUSTICE S. RAVI KUMAR

DATED: 20.06.2016

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