

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.Nos.31 and 48 of 2016

ORDER:

These two petitions are filed to withdraw O.P.Nos.1864 and 1865 of 2014 from the file of Family Court, Ranga Reddy District, and transfer them to Family Court, Anantapur.

2. Wife filed these two petitions and according to her affidavits, her marriage with respondent was performed on 21.11.2007 and due to harassment, she is living separately as her husband deserted her. She stated that she has been residing with her children and she is unemployed house wife and leading life of destitute woman at her mother's house and facing financial crunch. She further stated that distance between her place of residence and Family Court, Ranga Reddy District is 330 K.Ms. and it is difficult for her to travel all the way with her minor children. She also stated that she is not in a position to meet the expenses from her place of residence to Ranga Reddy, therefore, she sought transfer of O.P. from Family Court, Ranga Reddy District to Family Court, Anantapur, which is at the distance of 80 K.Ms. from her place of residence.

3. Respondent/husband filed counter disputing the affidavit averments of the petition and contended that transfer is sought on frivolous and untenable grounds and transfer from one Court to another cannot be ordered at the request of a party, who wants to avoid a particular Court. It is further stated that the petitioner resigned her job at Ranga Reddy and left to Guntakal only for the purpose of filing transfer petition and that minor children were staying at Hyderabad and she intentionally took them to her parents house to gain sympathy of the Court for transfer. It is further stated that parents of the respondent are staying at Nirmal and he is the only son who is taking care of his old aged parents and that his father is a heart patient and he has to frequently visit his parent's house at Nirmal and if the case is transferred to Anantapur, it will cause great inconvenience to

travel nearly about 600 K.Ms. It is further stated that petitioner's brothers are having criminal back ground, as such, if O.P. is transferred to Anantapur, there is every likelihood danger to his life. It is also stated that the petitioner has participated in the proceedings before the Family Court, Ranga Reddy District and she never raised any objection at that point of time and the present applications are filed only to harass the respondent. Therefore, the petitions are liable to be dismissed.

4. Heard both sides.

5. Advocate for petitioner submitted that now the children are staying at Guntakal and wife is staying at her parent's house and as she has no financial status to meet the travelling expenses from Guntakal to Ranga Reddy, her request for transfer may be considered by taking her convenience into consideration.

6. Advocate for respondent strongly opposed the request of advocate for petitioner mainly on the ground that petitioner resigned her job without assigning any reasons, only to seek transfer of the case from Ranga Reddy to Guntakal. It is further submitted that case cannot be transferred from one place to another on the request of the parties, who change their places. It is submitted that this Court can curtail such attitude and to support his argument, he placed reliance on judgment of this Court in **U.Sree v. U.Srinivas**^[1], wherein this Court observed that mere intention to settle at particular place cannot be construed as fact, which is essential to confer the jurisdiction in a Court while dealing with a petition, dismissed by the Family Court holding that particular Court had no jurisdiction to entertain petition filed under Section 18(1) and 2(a) and (g) of Hindu Adoption and Maintenance Act, 1956. He has also referred to a judgment in **Chellikani Gopala Rao v. Damara Venkata Muralikrishna Rao**^[2] wherein, this Court held that the prayer made in that suit is not a sufficient ground for transfer of a case. In that case, a civil suit was sought for transfer from

one Court in Rajam to a Court at Srikakulam, while considering the request of the petitioner therein, this Court observed that the ground on which the transfer is prayed therein is not a substantial ground. But, here, wife filed these applications for transfer of cases from Ranga Reddy to Anantapur on the ground of convenience. Admittedly, children are now at Guntakal with the petitioner. One of the petitions pending before Family Court, Ranga Reddy District is for custody of children. In that case, presence of children before the Court is necessary, as the Court before passing any order for custody, has to interact with the children and paramount consideration in that case is safety and convenience of the children.

7. One of the contentions of the advocate for respondent is that wife intentionally resigned her job only for the sake of getting these two cases transferred to Anantapur. I am not in acceptance of this contention for the sake of transfer petition, an individual would not go to the extent of quitting a job, particularly a deserted wife.

8. In **Sumita Singh v. Kumar Sanjay**^[3], the Hon'ble Supreme Court held that convenience of the wife is the paramount consideration in a transfer petition. Therefore, considering the Supreme Court's decision, I am of the view that the decisions relied on by the advocate for respondent cannot be made applicable to the facts of this case, particularly, when children and wife are residing at Guntakal.

9. For these reasons, I am of the view that the request of the wife has to be considered.

10. Therefore, O.P.Nos.1864 and 1865 of 2014 are withdrawn from the file of Family Court, Ranga Reddy District and transferred to Family Court, Anantapur, for disposal in accordance with law. In view of the threat expressed by the respondent/husband, the Family Court, Anantapur, shall dispense with the presence of respondent/husband herein for each and every adjournment. However, he shall appear as and when his physical presence is felt necessary for any specific purpose.

- 11. Accordingly, transfer C.M.Ps. are ordered. No costs.
- 12. Miscellaneous Petitions pending, if any, shall stand dismissed.

S. RAVI KUMAR, J

Date: 18.07.2016

pab

[\[1\]](#) 2005(5) ALD 25
[\[2\]](#) 2009(4) ALD 316
[\[3\]](#) AIR 2002 SC 396