

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

TRANSFER C.M.P.NOS.811 & 812 OF 2015

COMMON O R D E R:

The petitioner-wife filed Transfer C.M.P.No.811 of 2015 against the respondent-husband and Tr.C.M.P.No.812 of 2015 against the first respondent-husband and his parents seeking to transfer O.S.No.433 of 2013 and O.S.No.240 of 2012 respectively, pending on the file of XIV Additional District Judge, Ranga Reddy District at L.B.Nagar to the file of Family Court Judge, Ranga Reddy District at L.B.Nagar.

It is stated by the petitioner that respondent-B.Venkat Kishan Rao is her former husband. They were married on 05.05.1993 as per Hindu rites and customs. In the month of December 1999, the petitioner had taken a home loan facility from Canfin, a financial institution for purchase of property of her own. In August 2002 she came across the offer for sale of plot No.45 in S.No.87, 88/2 and 89/2 admeasuring 312 square yards in Alind Division Employees' Cooperative Society Limited. As the Home Loan facility was fallen short, she sold her independent house at Chandanagar and purchased the said land vide registered sale deed dt.19.09.2002, which is the

suit schedule property in O.S.No.240 of 2012 on the file of XIV Additional District Judge, Ranga Reddy District at L.B.Nagar, which was filed by her for declaration and recovery of possession against the respondent-husband and his parents. On the date of filing of the said suit, the petitioner and her husband were already divorced. It is also stated that during the subsistence of marriage, the husband filed O.S.No.11 of 2002 on the file of Family Court Judge, Ranga Reddy District at L.B.Nagar and the same was transferred to XIV Additional District Judge, Ranga Reddy District at L.B.Nagar and renumbered as O.S.No.433 of 2013. The said suit in O.S.No.433 of 2013 relates to schedule A to C properties therein alleging that he had purchased those properties in the name of the petitioner. In O.S.No.433 of 2013 petitioner-defendant filed written statement stating that the said properties are her self acquired properties, which were purchased with her own earnings in her name and as such, the respondent-husband has no right, title or interest over the said properties. It is also stated that schedule-A property in O.S.No.433 of 2013 is also the schedule property in O.S.No.240 of 2012.

The learned counsel for the petitioner submits that since the dispute pertains to the properties which were purchased

during the subsistence of marriage between the petitioner-wife and her former husband, the Family Court has jurisdiction to try the said suits in view of Section 7 (1) read with Explanation (c) of Family Courts Act, 1984.

Though notice is sent to the sole respondent in Transfer C.M.P.Nos.811 and the first respondent in Transfer C.M.P.No.812 of 2015, he refused to receive the same and no counter affidavit is filed by him. As such, it is deemed to be served. Though notices are served on respondent Nos.2 and 3 in O.S.No.812 of 2015, no counter affidavits are filed by them and there is no appearance on their behalf.

Heard the learned counsel for the petitioner.

In support of his contentions, the learned counsel for the petitioner relied on a decision of a Division Bench of this Court reported in **A.MANNAN KHAN VS. JUDGE AND FAMILY COURT, HYDERABAD, A.P. AND ANOTHER**^[1], wherein this court held that since the dispute has ensued inter se between the divorced spouses, it also falls within the purview of the parties to marriage as per Section 7 (1) (c) of Family Courts Act, 1984.

In view of facts and circumstances of the case and since the contentions of the learned counsel for the petitioner are not

controverted, O.S.No.240 of 2012 and O.S.No.433 of 2013 which are pending on the file of XIV Additional District Judge, Ranga Reddy District at L.B.Nagar are transferred to the file of Family Court Judge, Ranga Reddy District at L.B.Nagar.

The Transfer C.M.Ps., are accordingly allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.25.01.2016
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