

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.685 OF 2015

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ORDER :

This transfer petition is filed by the petitioner/wife against the respondent/husband for transfer of O.P.No.61 of 2015 instituted by the respondent/husband under Section 9 of the Hindu Marriage Act for restitution of conjugal rights which is pending on the file of the Court of the Principal Senior Civil Judge, Anakapalli, Visakhapatnam to the Court of Senior Civil Judge at Peddapuram, East Godavari District.

It is the case of the petitioner that her marriage with the respondent was solemnized on 26.08.2002 at Peddapuram, East Godavari District as per Hindu rites and customs. After the marriage, both of them lived at Visakhapatnam. Out of their wedlock, they were blessed with two daughters. When the respondent and his relatives harassed the petitioner, she is living with her parents at Peddapuram along with children. She filed DVC No.5 of 2015 against the respondent and his relatives which is pending on the file of the Additional Judicial First Class Magistrate, Peddapuram. She has also filed maintenance case under Section 125 Cr.P.C i.e., MC No.14 of 2015 on the file of the Addl. JFCM, Peddapuram and both the cases are also pending. When the respondent received notices from the Court of Addl. Judicial First Class Magistrate, Peddapuram, he filed O.P.No.61 of 2015 on the file of the Principal Senior Civil Judge, Anakapalli, Visakhapatnam, for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, to avoid payment of maintenance to petitioner and her children. The petitioner is apprehending danger in the hands of the respondent and that she has no support at Visakhapatnam. The parents of the petitioner are residents of Peddapuram, East Godavari District and that she has no

male assistance to travel all the way from Peddapuram to Visakhapatnam to defend her case. As such, the present transfer petition is filed seeking transfer of OP No.61 of 2015 from the Court of the Principal Senior Civil Judge, Anakapalli to the Court of Senior Civil Judge, Peddapuram, East Godavari District.

Though notice is ordered and served on the respondent, neither counter affidavit is filed opposing this petition nor entered appearance.

Heard learned counsel for the petitioner.

The averments made in the affidavit are not rebutted and there is no opposition from the respondent. The facts referred to above goes to show that the two cases i.e., DVC No.5 of 2015 and M.C.No.14 of 2015 are pending before the Addl.JFCM, Peddapuram and respondent has to attend the same to defend himself. Since it is stated the petitioner is residing with her parents at Peddapuram and has no male assistance to travel all the way from Peddapuram to Visakhapatnam, I am of the opinion that OP No.61 of 2015 on the file of the Principal Senior Civil Judge, Anakapalli, Visakhapatnam is liable to be transferred to the Court of the Senior Civil Judge at Peddapuram, East Godavari District.

Accordingly, the Tr.CMP is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

05.01.2016
kvs

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