

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.813 of 2015

ORDER:

This petition is filed to withdraw O.P.No.1041 of 2015 from the file of Additional Family Court, City Civil Court, Hyderabad and transfer the same to Additional Family Court,-cum-XXIII Additional Chief Judge, Nampally, Hyderabad.

2. Wife filed this petition. According to her affidavit, her marriage was performed with respondent on 25.05.2006 at Bozia Kalyana Mandapam, Secunderabad as per Muslim rites and customs, and after marriage, she joined company of respondent and lived happily for about one month and thereafter she was ill-treated and she was necked out from respondent house and from that day she is residing at her parents house. She stated that as she had no source of income filed MC No.88 of 2011 before Additional Family Court-cum-XXIII Additional Chief Judge, Nampally which was disposed of on 15.05.2013 and as the respondent failed to pay the maintenance amount, she filed petition under Section 125 (3) CrPC and the same is pending. She stated that she filed OP before Family Court, City Civil Court, Hyderabad for dissolution of marriage and the same is coming up for appearance of respondents. She stated that for proper appreciation and to avoid conflicting orders, it is just and necessary to transfer O.P.No1041 of 2015 from Family Court, Hyderabad to Family Court-cum-XXIII Additional Chief Judge, Nampally.

3. Respondent in spite of service of notice neither appeared in person nor through any advocate.

4. Heard arguments.

5. Advocate for petitioner submitted that petitioner/ wife filed Maintenance Case before Additional Chief Judge, Nampally and if the present O.P.No.1041 of 2015 is transferred to this Additional Chief Judge, Nampally, it is convenient to petitioner to prosecute both petitions, so that all matters are in the same compound.

6. I have perused the material papers including affidavit of petitioner. The main ground urged for transfer is to avoid conflicting decisions O.P. has to be transferred to Additional Family court, Hyderabad which is also XXIII Additional Chief Judge, Nampally, Hyderabad. As seen from the affidavit, the main M.C is already disposed of on 15.05.2013 and petitions pending before XXIII Additional Chief Judge, Nampally are only execution petitions filed under Section 125(3) Cr.P.C. Enquiry contemplated in execution petition under Section 125(3) Cr.P.C., is nothing to do with the enquiry in O.P. filed for dissolution of marriage. The ground on which petitioner sought for transfer is to avoid conflicting decisions. Since M.C is already disposed of, there cannot be any conflicting orders and the point involved in 125(3) Cr.P.C is only to verify whether maintenance order granted in M.C.No.88 of 2011 is complied or not. The distance between Family Court, Hyderabad and Additional Family Court, Nampally is not much and both the Courts are in Hyderabad only. Hence, I am of the view that request of petitioner is not reasonable.

7. On a scrutiny of the material, I am of the view that petitioner failed to make out any ground for transfer as requested.

8. For these reasons, the Transfer Civil Miscellaneous

Petition is dismissed. No costs. Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 17-02-2016

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