

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.782 of 2015

ORDER:

This petition is filed to transfer O.P.No.35 of 2013 from the file of Senior Civil Judge, Sathupally, Khammam District, to Family Court, City Civil Court, Hyderabad.

2. Wife filed this petition. According to her affidavit, she completed her Post Graduation in medicine in May, 2015 and joined as Senior Resident Doctor in Gandhi Hospital in July, 2015 and she is now working in that hospital and residing at her mother's house in Venkateswara Nagar Colony, Nagaram Village, Keesara Mandal, Ranga Reddy District, and as the H.M.O.P.No.35 of 2013 is pending before Sathupally it is difficult for her to go alone to Sathupally for each and every adjournment to defend the case. She stated that she is apprehending insecurity to her life as she has to go alone as her father is no more and there is no male assistance to her. She further stated that respondent-husband is highly influential person both politically and monetarily, therefore, she prayed for transfer of O.P.No.35 of 2013 from Senior Civil Judge, Sathupally, to Family Court, Hyderabad.

3. Respondent filed counter affidavit disputing the affidavit averments of petitioner. According to respondent, H.M.O.P.No.35 of 2013 is filed for dissolution of marriage and in that petitioner herein filed I.A.No.178 of 2015 for interim custody of minor child and that Court granted visiting rights to the petitioner by order dated 28.09.2015

permitting petitioner to see the boy twice in a week and petitioner is visiting Khammam to see the boy regularly and she has not experienced any threat during those visits and there are no grounds to transfer the case to any other Court.

4. Heard both sides.

5. Both sides submitted their arguments supporting the contentions and rival contentions of their respective clients.

6. Advocate for petitioner relied on a decision of Hon'ble Supreme Court in **Smt. T.Gayatri Devi v.**

Dr.Tallepaneni Sreekanth^[1], wherein it is held that where a destitute woman depending on the charity of her parents and taking shelter in her parental house has to be considered to allow transfer of the divorce proceeding on the ground that she could not afford the expenditure of travel and accommodation at Hyderabad. In that case transfer O.P. was filed seeking transfer of O.P. from Family Court, Hyderabad, to Family Court, Kakinada and High Court dismissed that application and while setting aside the order of the High Court, the Hon'ble Supreme Court made the above observations.

7. In this case, there is no plea that petitioner cannot afford the travelling expenditure or she is not in a sound financial position. The only ground on which transfer sought is that she has no male assistance to accompany her from Hyderabad to Sathupally and that she

apprehend danger to her life if she travel alone to Sathuapally. Respondent-husband filed counter-affidavit stating that petitioner is attending Khammam in pursuance of visiting rights granted to her in I.A.No.178 of 2015 to see the boy and that she has not experienced any threat during those visits and this statement in the counter-affidavit remained unchallenged as no reply affidavit is filed on behalf of petitioner disputing those facts. When wife is attending Khammam exercising visiting rights granted to her to see the boy and when she has not faced any difficulty during such visits the contention of petitioner that she cannot travel from Hyderabad to Khammam without male assistance cannot be accepted. The decision relied on by petitioner has no application to the facts of this case. Further O.P.No.35 of 2013 is pending before Senior Civil Judge, Sathupally, where physical presence of parties is not required unlike in a Family Court. For these reasons, I am of the view that there are no grounds to consider the request of petitioner for transfer of O.P.No.35 of 2013 from Sathuapally to Hyderabad.

8. Accordingly, this transfer C.M.P. is dismissed.

9. Miscellaneous petitions pending, if any, shall stand closed.

S. RAVI KUMAR, J

11th April 2016.

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[\[1\]](#) 2013 (4) CCC 218 (SC)