

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.474 of 2016

ORDER:

This application is filed to withdraw O.S.No.110 of 2014 from the file of Family Court, Tirupati, and transfer the same to Family Court, Warangal.

2. Wife filed this application. According to her affidavit, her marriage with respondent was performed on 23.11.1982 at their native place Warangal and due to differences, she is now living separately. She stated that she has received notice in O.P.No.110 of 2014 filed by respondent before Family Court, Tirupati. She stated that she has been residing at Warangal since more than two years and as per own pleadings of respondent and cause-title, respondent has given two addresses, one in Tirupati and the other in Warangal. She further stated that she is residing at Warangal with her children and respondent are also living at Warangal and it will not cause any prejudice to respondent if divorce O.P. is transferred from Family Court, Tirupati, to Family Court, Warangal. She further stated that it is financially onerous for her to travel from Warangal to Tirupati, which is at a distance of 650 kilometres by undertaking twelve hours journey. For these reasons, she prayed for transfer of O.S.No.110 of 2014 from Family Court, Tirupati, to Family Court, Warangal.

3. Respondent filed counter resisting the request of petitioner and contended that he received threatening calls from Warangal from petitioner stating that matter should be resolved in a Praja Court at Warangal and one Bellamkonda Katta Mallu alias

Kamalakar contacted him on telephone at the instance of petitioner and informed that matter would be settled at Praja Court. As he has life threat at Warangal, he opposed for transfer of O.P. from Family Court, Tirupati, to Family Court, Warangal.

4. Heard both sides.

5. Advocate for petitioner submitted that from the pleadings and cause-title both in the O.P. filed before Family Court, Warangal, and also from the affidavit filed in trial Court as chief examination, respondent has shown his residential address as Warangal and contentions raised regarding alleged threat are not at all correct. She further submitted that as respondent is also residing at Warangal, no prejudice will be caused if O.P. is transferred from Tirupati to Warangal. She further submitted that by taking convenience of wife into consideration, O.P. filed by husband has to be transferred from Tirupati to Warangal.

6. Advocate for respondent submitted that respondent is temporarily residing at Warangal, but he is a permanent resident of Tirupati and his mother is at Tirupati and he has to take care of his mother and he is also getting his treatment at Tirupati and as he has life threat at Warangal, it is not safe to transfer O.P. from Tirupati to Warangal.

7. I have perused the material papers including the affidavit and counter affidavit of both parties.

8. In O.P.No.110 of 2014 filed before Family Court, Tirupati, respondent herein has shown his address as resident of Door

No.20-2-149, Gangaputhra Street, Fort Warangal (West), Warangal, while referring to his designation as Retired Professor/Chief Medical Officer, S.V.Ayurveda College Hospital, T.T.D., Tirupati. In the chief affidavit filed before Family Court, Tirupati also, respondent referred to same address and stated on oath that he is residing at Door No.20-2-149, Gangaputhra Street, Fort Warangal (West), Warangal. Contrary to this, now, respondent contends that he is permanent resident of Tirupati and his temporary residence is at Warangal. I am not in agreement with contention of respondent with regard to his plea in respect of residence. When his own documents disclose that he is a resident of Warangal with door number and when wife is also residing at Warangal, filing of O.P. at Tirupati and insisting wife to come there for the purpose of defending O.P., in my view, is not justified. As rightly pointed out by advocate for petitioner, convenience of wife is paramount consideration in a transfer petition, particularly, in matrimonial matters, is the settled law. Considering these aspects, I am of the view that request of wife for transfer of O.P. has to be considered.

9. Accordingly, without prejudice to rights of both parties and their respective contentions in the main O.P., O.P.No.110 of 2014 is withdrawn from the file of Family Court, Tirupati, and transferred to Family Court, Warangal, for disposal in accordance with law. Family Court, Warangal, shall dispense with the presence of respondent herein/husband for each and every adjournment. However, he shall appear as and when his physical presence is felt necessary for any specific purpose.

10. The petition is ordered accordingly. No costs. Miscellaneous petitions, if any, pending in this petition, shall stand dismissed.

08th September, 2016.
Bvv

S. RAVI KUMAR, J

