

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

TRANSFER C.M.P.NOs.288 AND 404 OF 2016

COMMON ORDER:

These two transfer petitions are filed seeking transfer of cases instituted by wife and husband respectively.

Tr.CMP.No.288 of 2016 is filed to withdraw F.C.O.P.No.502 of 2016 pending before Judge, Family Court, City Civil Court, Hyderabad and transfer the same to Judge, Family Court, Visakhapatnam whereas Tr.CMP.No.404 of 2016 is filed by husband to withdraw F.C.O.P.No.501 of 2016 from Judge, Family Court, Visakhapatnam and transfer the same to Judge, Family Court, Hyderabad. Wife filed petition before Family Court, Visakhapatnam for restitution of conjugal rights whereas husband filed O.P. before Family Court, Hyderabad for divorce. Both parties made allegations and counter allegations against each other and they are reiterated in the transfer petitions, so also in the arguments but they are subject matter of main O.Ps. which cannot be decided in these transfer petitions.

From the submissions of both sides, it is clear that husband is working at Chennai and he has to come from Chennai even for the case pending before Family Court, Hyderabad. It is also not in dispute that both these cases have to be tried by one Court to avoid conflicting decisions and as the evidence to be led in both cases is one and the same. Husband sought divorce mainly on medical grounds and advocate for husband submitted that if the case is transferred to Visakhapatnam, it is difficult to get medical evidence recorded at Visakhapatnam, so also it is difficult for the husband to come from Chennai. On the other hand, advocate representing wife urged that convenience is paramount consideration in transfer petition and by fixing time schedule for the Family Court, Visakahapatnam, these O.Ps can be disposed of in favour of wife.

I have perused the material papers including the affidavits filed in both the petitions. Considering the contentions and rival

contentions of both parties and also considering the fact that husband is working at Chennai and as it is difficult for him to appear for each and every adjournment, I deem it appropriate to consider the request of the wife by dispensing with the presence of husband before Family Court, Visakhapatnam on some conditions.

For these reasons, F.C.O.P.No.502 of 2016 is withdrawn from Judge, Family Court, City Civil Court, Hyderabad and transferred to Judge, Family Court, Visakapatnam to be tried along with F.C.O.P.No.501 of 2016 in accordance with law. The Judge, Family Court, Hyderabad shall immediately transfer the records without any further delay to the Judge, Family Court, Visakhapatnam and the Judge, Family Court, Visakhapatnam on receipt of records from Judge, Family Court, Hyderabad shall dispose of both the O.Ps within three months. Further the Judge, Family Court, Visakhapatnam shall dispense with the presence of husband for each and every adjournment, however, he shall appear as and when his physical presence is felt necessary for any specific purpose.

Accordingly, Transfer C.M.P. filed by wife is allowed and Transfer C.M.P. filed by husband is dismissed. No costs. Miscellaneous petitions, if any, pending in both cases shall stand dismissed.

(S.RAVI KUMAR, J)

22nd August 2016

RRB