

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P. No.278 of 2016

ORDER:

This petition is filed for withdrawal of O.P.No.894 of 2015 from the file of Family Court, City Civil Court, Secunderabad, and transfer the same to Principal Senior Civil Judge, Kakinada, East Godavari District.

2. Wife filed this petition. According to her affidavit, her marriage with respondent No.1 was performed on 12.10.2005 at Boiguda, Secunderabad and due to harassment and attitude of respondent No.1, she is residing at her parents' house. She stated that she filed M.C.No.10 of 2016 before IV Additional Judicial First Class Magistrate, Kakinada and also filed D.V.C. before Project Director, Kakinada, seeking reliefs under Sections 18 to 22 of Domestic Violence Act, which is referred to V Additional Judicial First Class Magistrate, Kakinada and numbered as D.V.C.No.9 of 2016 and both the cases are pending and respondent No.1 is appearing for these two cases. She further stated as a counter blast, respondent No.1-husband filed O.P.No.894 of 2015 at Secunderabad and she is dependent on her father and it is difficult for her to travel for such a long distance and she has no male assistance. She further stated that there is threat in the hands of her husband and as the maintenance case and D.V.C. case are pending at Kakinada, she prayed for

transfer of O.P.No.894 of 2015 from Family Court, Secunderabad, to Principal Senior Civil Judge, Kakinada.

3. Respondent No.1 disputed the affidavit averments and filed counter and stated that D.V.C. is filed as a counter blast to O.P.No.894 of 2015 filed by him at Family Court, Secunderabad. He stated that he is working as Public Prosecutor in Railways and he has to attend the Court duties at various places and his timings are 7.30 a.m. to 10.00 p.m. on all working days. He further stated that every Friday he has to attend Camp Court from 7.30 a.m. onwards. He further stated that he has to look after the minor son, aged about four years, and he admitted his son in Bachpan School and petitioner is staying single can travel from Kakinada to Secunderabad and he is prepared to pay the travel expenses whenever she attends the Court. He further stated that attempts were made on him to cause physical harm and he reported the matter to Human Rights Commission and directions were given to Superintendent of Police, Kakinada, and for these reasons, he prayed for dismissal of transfer C.M.P.

4. Heard both sides.

5. Both advocates submitted their arguments supporting respective contentions of their parties.

6. I have perused the material papers including the documents filed along with counter-affidavit of respondent No.1. As seen from the material, respondent No.1 is

attending Kakinada Court in connection of D.V.C.No.9 of 2016 and M.C.No.10 of 2016, therefore, the contention about life threat cannot be accepted. The main contention of respondent No.1 is that he is working as Public Prosecutor in Railways and he has to attend for his duties on all working days from 7.30 a.m. to 10.00 p.m. and it would be difficult for him to travel from Secunderabad to Kakinada, for the purpose of prosecuting O.P.No.894 of 2015 filed by him. As already referred above, he is attending the Court at Kakinada in connection of two cases and he can make a request to the Presiding Officers to post all the cases to a single date for his convenience. Further, wife sought transfer of the case to a Senior Civil Judge Court, Kakinada, where physical presence of party is not necessary unlike in Family Court. Considering these aspects, I am of the view convenience of wife has to be taken into consideration and as respondent No.1 is already attending Courts at Kakinada in connection of the above two cases, no prejudice would be caused to him if this O.P.No.894 of 2015 is transferred to Kakinada.

7. For these reasons, O.P.No.894 of 2015 is withdrawn from Family Court, Secunderabad and transferred to Principal Senior Civil Judge, Kakinada, for disposal in accordance with law. The Principal Senior Civil Judge, Kakinada shall consider the request of respondent No.1 to post the hearing of case to the date of

his choice.

8. Accordingly, transfer C.M.P. is ordered.

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

S. RAVI KUMAR, J

22nd June 2016.

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