

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

Transfer C.M.P.No.39 of 2016

ORDER:

This application is filed to withdraw H.M.O.P.No.2 of 2014 from the file of Additional Senior Civil Judge, Ongole, and transfer the same to the Court of Senior Civil Judge, Kavali, SPSR Nellore District.

2. Wife filed this petition. According to her affidavit, her marriage with respondent was performed on 12.06.2009 at Dargametta, SPSR Nellore District, as per Hindu rites and caste custom and as respondent started harassing her both physically and mentally, she went to her parents house at Veernakallu Village of Kaligiri Mandal, SPSR Nellore District, and now staying with her parents. She stated that she lodged a complaint against respondent herein for the offence punishable under Section 498-A IPC. She further stated that respondent filed HMOP before the Senior Civil Judge, Ongole, for divorce, in which she also filed her counter. She stated that being a lady, she is not in a position to appear for each and every adjournment to defend the case. She further stated that she is economically weak and cannot travel from Kaligiri, SPSR Nellore District, to Ongole which is about 81 kilometres, as she has no male support to accompany her. She also stated that her parents are sick and cannot undertake travel for such long distances. For these reasons, she prayed for transfer of HMOP No.2 of 2014 from the Court at SPSR Nellore District to the Court at Ongole.

3. Respondent filed counter disputing all the affidavit averments of petitioner and mainly contended that Ongole is convenient for him as he has to travel from Chennai for the purpose of this HMOP. He further stated that presence of petitioner is not at all required for each and every adjournment and, therefore, no prejudice would be caused if the HMOP is continued at the Court of Additional Senior Civil Judge,

Ongole. He further stated that he is also attending the Maintenance case and criminal case at Kavali, SPSR Nellore District and if the HMOP is transferred from Ongole to Kavali, it will become difficult for him to attend all the three cases, as the said cases would be posted on different dates. For these reasons he prayed for dismissal of the petition.

4. Heard both sides.

5. Advocate for petitioner submitted that in criminal case, charge sheet was already filed and respondent is attending the Criminal Court. Advocate for respondent submitted that in HMOP, trial is already commenced and if, for any reason, request of wife is considered, presence of respondent for each and every adjournment may be dispensed with.

6. Considering the submissions of both sides and the material on record, I am of the view that request of wife can be considered by dispensing with the presence of husband for each and every adjournment on some conditions.

7. Accordingly, HMOP No.2 of 2011 is withdrawn from the file of Additional Senior Civil Judge, Ongole, and transferred to the Court of Senior Civil Judge, Kavali, SPSR Nellore District, for disposal in accordance with law. The Senior Civil Judge, Kavali, SPSR Nellore District, shall dispense with the presence of respondent herein, i.e., husband for each and every adjournment. However, he shall appear as and when his physical presence is felt necessary for any specific purpose.

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

08th August, 2016.
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S. RAVI KUMAR, J