

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

TRANSFER C.M.P.NO.3 OF 2016

ORDER:

This Transfer C.M.P. is filed by the petitioner-wife against the respondent-husband for transfer of O.P.No.911 of 2015 instituted by the respondent for grant of divorce against the petitioner, pending on the file of the Family Court, Ranga Reddy District at L.B.Nagar, to the Family Court, Kadapa, Y.S.R.District.

The case of the petitioner is that the marriage of the petitioner with the respondent took place on 24.09.2009 at Vanipenta Chenna Kesava Swamy Temple, Y.S.R.District as per the Hindu Rites and Customs and their marriage was solemnized and that they were blessed with two children. Thereafter, the respondent and his family members started demanding the petitioner for additional dowry to start business at Hyderabad. While so, the parents of the petitioner received summons from the Family Court, Ranga Reddy District in O.P.No.911 of 2015 on 09.08.2015. When the petitioner questioned the respondent about the allegations made in the present O.P., the respondent and his family members took

away her son and necked out her from their house on 11.08.2015. Having no other alternative, the petitioner filed a complaint against the respondent and his family members before Chandanagar Police Station, Hyderabad. It is also the case of the petitioner that though she lived with the respondent till 10.08.2015, in the cause title it was shown by the respondent that she is a resident of Khazipet. It is also stated that due to the acts of respondent, the petitioner is constrained to stay at Khazipet and she cannot travel all the way from Kadapa to Hyderabad for each and every adjournment, which is at a distance of 400 kms.

This Court by order, dt.05.01.2016 granted interim stay of all further proceedings in the O.P and permitted the learned counsel for the petitioner to take out notice to the respondent and though notice was taken out by the respondent, the same was returned with an endorsement 'no such person in this house', hence, returned to sender' and a memo to that effect is filed before this court. It has to be seen that the notice is sent to the address given by the respondent in O.P.No.911 of 2015. As per Section 27 of General Clauses Act gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the

said presumption, when a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver or complain that in spite of return of notice being unserved, it is deemed to have been served or the addressee is deemed to have knowledge of notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business. Hence, notice is deemed to be served on the respondent.

The averments made by the petitioner in the Transfer C.M.P. are

un-controverted and the petitioner being a lady, cannot travel all the way from Kadapa to Hyderabad. In view of the judgment of the Apex Court in **SUMITA SINGH VS. KUMAR SANJAY AND ANOTHER**, wherein it was held that while transferring the matrimonial proceedings initiated by the husband, the convenience of wife must be looked at, the Transfer C.M.P is liable to be allowed.

In view of facts and circumstances of the case, Transfer C.M.P. is allowed transferring O.P.No.911 of 2015 from the file of Family Court, Ranga Reddy District at L.B.Nagar to the Family Court, Kadapa, Y.S.R.District. Miscellaneous petitions

pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKAER REDDY, J

Dt.25.01.2016

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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Dt.25.01.2016