

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

TRANSFER C.M.P.Nos. 69 AND 216 OF 2016

COMMON ORDER :

Tr.C.M.P.No.69 of 2016 is filed by the wife to withdraw O.P.No.10 of 2016 on the file of the Principal Senior Civil Judge, Sattenapally, Guntur District, and transfer the same to III-Additional Senior Civil Judge, Kakinada, East Godavari District.

2. Tr.C.M.P.No.216 of 2016 is filed by the husband to withdraw O.P.No.271 of 2014 on the file of the III-Additional Senior Civil Judge, Kakinada, East Godavari District, and transfer the same to Principal Senior Civil Judge, Sattenapally, Guntur District.

3. O.P.No.271 of 2014 is filed by the wife for the relief of divorce under Section 13 of the Hindu Marriage Act against the husband before Senior Civil Judge's Court at Kakinada of East Godavari District, the same is pending since 2014. O.P.No.10 of 2016 is filed by husband for restitution of conjugal rights before Senior Civil Judge, Sattenapally. The wife seeks transfer of the restitution of conjugal rights petition to Senior Civil Judge's Court, Kakinada, to try along with O.P.No.271 of 2014. Undisputedly, there are some cases pending at Sattenapally and two more cases pending at Kakinada between the parties interse, thereby not only in this case, but also fact that one or the other have to attend. However, the fact remains that the entitlement of restitution of conjugal rights petition, if any, is subject to the result of the divorce petition only, if at all the divorce entitled by wife is granted, the petition for restitution of conjugal rights has become infructuous. However, on that ground

when the husband is not willing for transfer the case of the wife from Kakinada to Sattenapally cannot be, as it is more onerous to held.

4. It is the submission in the course of hearing, the divorce petition filed by wife is earlier point of time of the restitution of conjugal rights petition and the divorce petition is pending since 2014, the same is taken up for early disposal and seeks direction to the Senior Civil Judge, Kakinada in this regard, so that after the result, if any relief remains in O.P.No.10 of 2010 to proceed with without prejudice to the rights of the wife, if at all in future to seek such for transfer.

5. Hence, this Court does not find any grounds as on today to transfer O.P.No.10 of 2010 to try along with O.P.No.271 of 2012, but for to direct the learned Senior Civil Judge, Kakinada, where O.P.No.271 of 2014 is filed for divorce relief is pending, to take up the enquiry on day-to-day basis and dispose of it within three months from the date of receipt of the order so that subject to the result any relief remains in O.P.No.10 of 2010 the party can pursue in cases pending at Sattenapally.

6. Accordingly and in the result, transfer petitions are disposed of. The interim orders, pending if any, in both the matters by virtue of this order stand vacated.

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

Dr. B. SIVA SANKARA RAO, J

22nd September 2016.
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