

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.509 of 2015

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ORDER:

This transfer petition is filed by the petitioner/wife against the respondent/husband for transfer of HMOP.No.59 of 2015, pending on the file of the Senior Civil Judge, Vizianagaram, Vizianagaram District to any Family Court or Senior Civil Judge's Court at Srikakulam.

The case of the petitioner is that her marriage with the respondent was performed on 19.08.2005 at Kasapa Street, Vysya Varthaka Association Building, Cheepurupalli Village and Mandal, Vizianagaram District as per Hindu rites and customs and that out of their wedlock they were blessed with one son, who is now aged five years. The respondent is working in Army as Hawaldar and that he is not residing at Cheepurupalli, Vizianagaram. The petitioner further stated that the respondent and his family members harassed her physically and mentally and that there was threat to her life in the hands of the respondent and his family members and as such, she is staying with her parents at Arasavilli, Srikakulam District. Meanwhile, the respondent filed HMOP.No.59 of 2015 on the file of the Senior Civil Judge, Vizianagaram, seeking divorce. The grievance of the petitioner is that it is very difficult for her to travel along with her small child all the way from Arasavilli to Vizianagaram for defending the HMOP.No.59/2015, without any male assistance and that there is threat of danger to her life. She further states that her husband/respondent is residing at Jammu and Kashmir boarder security. Hence, she sought for transfer of the OP.

The respondent filed counter admitting his relationship with the petitioner stating that their marriage was solemnized on 19.08.2005 at Kasapa Street, Vysya Varthaka Association, Cheerupalli Village and Mandal, Vizianagaram District and also admitted that out of their wedlock they blessed with one male child. The respondent denied the averments of demanding dowry and also ill-treatment caused to the petitioner. He further states that he made all his best efforts to get back the petitioner to his conjugal society. It is also stated that the distance between Vizianagaram and Srikakulam is about 40 K.Ms; and that he is discharging his duties at Sikkim borders and as such threat to the life of the petitioner does not arise. He further states that the petitioner filed the transfer petition only to protract the proceedings by suppressing the material facts.

Heard both sides.

Admittedly, even as per the petitioner the respondent is residing at Jammu & Kashmir boarder security in Army. As per the respondent the distance between Vizianagaram and Srikakulam is 40 K.Ms. and the same is not disputed by the petitioner by filing any reply. Moreso, when the respondent is residing at Jammu & Kashmir, question of threat by the respondent does not arise and the distance alleged between Vizianagaram and Srikakulam is only 40 K.Ms. and that the parents of the petitioner are available to accommodate the petitioner. Further, since the respondent is residing at Jammu & Kashmir and his marriage took place at Vizianagaram, he instituted the said HMOP within the jurisdiction of Courts at Vizianagaram. In view of the same, I do not see any merit for transfer of HMOP.No.59 of 2015 from Vizianagaram to Srikakulam.

Accordingly, the transfer petition is dismissed. However, the presence of the petitioner shall be dispensed with before the Court below, on each and every date of hearing, except on the dates of conciliation and cross-examination. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

12.02.2016

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