

THE HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.565 OF 2017

ORDER:

The transfer petition is filed by the petitioner/wife under Section 24 C.P.C., to transfer F.C.O.P.No.573 of 2016 on the file of the Judge, Family Court, Secunderabad, to any Court at Kovvur or SPSR Nellore District.

The respondent even served failed to attend. Heard the learned counsel for the petitioner and perused the grounds urged in the transfer petition.

It is the case of the petitioner/wife that subsequent to the divorce O.P. filed by her husband, she filed H.M.O.P.No.54 of 2017 on the file of the Senior Civil Judge, Kovvur, for restitution of conjugal rights, M.C.No.34 of 2017 and D.V.C.No.7 of 2017 on the file of the learned Additional Judicial Magistrate of First Class, Kovvur. As she is residing at Kovvur at her parents place, for her convenience, F.C.O.P.No.573 of 2016 also to be transferred to the Senior Civil Judge, Kovvur. The other contention is that she is unable to travel such a long distance even with train facility from Kovvur to Secunderabad. Needless to say, same may be the difficulty for the husband even, but for, to say from the subsequent filing of the M.C. and H.M.O.P. for restitution of conjugal rights and D.V.C. filed by the wife, which are pending in Kovvur at the Judicial First Class Magistrate and Senior Civil Judge respectively, to avoid inconvenience to both the parties and to sub serve the ends of justice, this Court feels that though the D.V.C. cannot be transferred

by withdrawing from the learned Judicial First Class Magistrate, Kovvur, H.M.O.P.No.54 of 2017 on the file of the Senior Civil Judge, Kovvur, and M.C.No.34 of 2017 on the file of the learned Additional Judicial Magistrate of First Class, Kovvur, can be transferred to the Judge, Family Court at SPSR Nellore District by transferring F.C.O.P.No.573 of 2016 on the file of the Judge, Family Court, Secunderabad, filed by the husband for divorce also to the Judge, Family Court at SPSR Nellore District, so that all the three matters, particularly, the restitution of conjugal rights and divorce O.Ps are be tried together by clubbing and the maintenance case simultaneously by posting to one single date of the adjournments to the convenience. Needless to say, the Judge, Family Court, SPSR Nellore District, shall not insist the personal appearance of the husband as respondent to the M.C. and restitution of conjugal rights O.P. and petitioner to the divorce O.P. if representing through advocate including under Section 126 Cr.P.C. Needless to say so far as the D.V.C. is concerned, the husband is also at liberty by virtue of this order to seek any exemption invoking section 126 Cr.P.C. if representing through advocate.

With the above observations, the Tr.C.M.P. is partly allowed.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

DR. B. SIVA SANKARA RAO, J

Date: 15.11.2017
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