

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN

TRANSFER C.M.P. No.77 of 2017

ORDER:

This application is filed by the petitioner-wife seeking transfer of M.O.P.No.70 of 2016 from the file of the Additional Senior Civil Judge at Kothagudem, Khammam District, to the Family Court at Vijayawada.

2. The first respondent-husband has appeared.
3. Heard the learned counsel for the petitioner-wife and the learned counsel for the first respondent-husband.
4. The second respondent is alleged to be an adulterer insofar as the M.O.P. filed by the husband for divorce is concerned. An application for restitution of conjugal rights filed by the wife is pending in the Family Court, Vijayawada. She has also lodged an FIR for the offences punishable under Sections 323, 448, 498-A and 506 I.P.C against her husband. That is stated to be in the stage of prosecution before the Court in Vijayawada. The wife stays in Vijayawada. On the whole, it is appropriate that the same Family Court deals with the petition for restitution of conjugal rights filed by the wife as well as the petition for divorce filed by the husband. Though the wife is a co-respondent in the petition filed for divorce, it will be within the jurisdiction of the Family Court to decide whether those matters should be tried jointly or separately. To enable this process, it is necessary to transfer the M.O.P. filed by the husband.

5. In the result, the Transfer Petition is allowed transferring M.O.P.No.70 of 2016 from the file of the Additional Senior Civil Judge at Kothagudem, Khammam District, to the Family Court at Vijayawada.

6. The appearance of the first respondent-husband as well as the co-respondent (second respondent) will however stand dispensed with in the Family Court, Vijayawada, unless that Court specifically orders in the course of trial.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 28.12.2018
va/lur

THOTTATHIL B. RADHAKRISHNAN, CJ

