

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.2669 of 2018

ORDER:

Heard.

2. The present revision came to be filed assailing the order dated 19.03.2018, passed in T.O.P.No.15 of 2018, wherein the application filed by the husband/ petitioner for transfer of the case was dismissed.

3. The facts of the case are as under:

(i) The petitioner/ husband filed T.O.P.No.15 of 2018 seeking transfer of O.P.No.147 of 2016, on the file of Senior Civil Judge's Court, Ramachandrapuram, filed by his wife seeking divorce, to the Court of III Addl.Senior Civil Judge, Kakinada, to be tried along with O.P.No.349 of 2017 filed by the petitioner himself, seeking restitution of conjugal rights. On the other hand, T.O.P.No.18 of 2018 is filed by the wife of the petitioner/ husband seeking transfer of said O.P.No.349 of 2017 to the Court of Senior Civil Judge, Ramachandrapuram, to be tried along with said O.P.No.147 of 2016 filed by her.

(ii) The Court below, vide its common order dated 19.03.2018, dismissed the application filed by the husband vide T.O.P.No.15 of 2018 and allowed the application filed by the wife vide T.O.P.No.18 of 2018 under the following circumstances:

that it is settled proposition that an improper or incorrect order or procedural irregularity simplicitor made in the proceedings perse cannot be a ground for transfer;

that it is also well settled that in matrimonial matters, the convenience that may be caused to the wife has to be taken into account in considering the circumstances for transfer;

that the petition filed by the wife is prior to the case of husband and it is at advanced stage.

Challenging the dismissal of T.O.P.No.15 of 2018, the husband filed the present C.R.P.

4. The learned counsel for the petitioner submits that the issue involved in the suits filed by both the parties is one and the same and hence all the cases may be heard at one place. The petitioner/ husband pleads that it would be convenient for him if his case is transferred to Kakinada than to Ramachandrapuram.

5. It is well settled principle that in matrimonial matters, the inconvenience that may be caused to the wife has to be taken into account in considering the circumstances for transfer of the case rather than the husband. In *Sumita Singh versus Kumar Sanjay and another*¹, it was held by the Hon'ble Supreme Court that in a case where the wife seeks transfer of the petition, than as against husband's convenience, it is the wife's convenience which must be looked at. Further, it is to be noted that O.S.No.147 of 2016 filed by the by the wife is in advanced stage and the suit filed by the husband is at the stage of trial.

¹ (2001) 10 SCC 41

6. In view of the above circumstances and the judgment referred to above, I see no reason to entertain this C.R.P. and the same is accordingly dismissed.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed. There shall be no order as to costs.

08.06.2018
vnb

C. PRAVEEN KUMAR, J

