

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TR.CIVIL MISCELLANEOUS PETITION NO.400 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw HM.O.P.No.71 of 2016 pending on the file of the Senior Civil Judge, Peddapalli, Karimnagar District and transfer the same to the file of the Principal Senior Civil Judge, Warangal to try along with O.P.No.63 of 2017.

It is alleged that the petitioner filed petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and whereas the respondent filed petition under Section 13(i)(ia) and (ib) of the Hindu Marriage Act for dissolution of marriage by decree of divorce and they are pending on two different Courts. To avoid conflicting judgments, the petitioner requested to withdraw O.P.No.71 of 2016 pending on the file of Senior Civil Judge, Peddapalli and transfer the same to the file of the Principal Senior Civil Judge, Warangal, where O.P.No.63 of 2017 is pending.

No doubt, if the above two OPs are tried by two different Courts, there is every possibility of conflicting judgment. To avoid such conflicting judgments, both the petitions have to be enquired by one Court either jointly or simultaneously. The difficulty expressed by the petitioner is the same difficulty of the respondent, in case OP is withdrawn and transferred to the Court at Warangal. In those circumstances, the Court has to weigh the inconvenience being caused to each of the parties to the petition. In the present case, the petitioner is the wife, being female, aged 27 years. The difficulty of the wife will be out weigh the difficulty of the husband. Therefore, I find that it is a fit case to transfer OP from Peddapalli to Warangal.

With the above observation, the transfer civil miscellaneous petition is allowed and O.P.No.71 of 2016 pending on the file of the Senior Civil Judge, Peddapally, Karimnagar District is withdrawn and transferred to the file of the Principal Senior Civil Judge, Warangal for disposal in accordance with law leaving in open to the petitioner to try both jointly or separately subject to permissibility. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

M. SATYANARAYANA MURTHY, J

16.11.2018

kvrn

