

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
Tr.CMP No.421 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw G.W.O.P.No.321 of 2015 pending on the file of the Family Court, Vijayawada and transfer the same to the Family Court, City Civil Court, Hyderabad.

2 In spite of service of notice, the respondent did not choose to appear and contest the present petition. Hence, I am inclined to dispose of the matter on merits in the absence of the respondent. Heard the learned counsel for the petitioner and perused the material available on record.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 19.08.2004 at Nagol, Hyderabad as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life and out of the lawful wedlock, the petitioner and the respondent were blessed with a son on 03.11.2007. the petitioner filed O.P.No.712 of 2014 for dissolution of marriage between her and the respondent on the file of the Family Court, Secunderabad. The respondent filed G.W.OP.No.321 of 2015 on the file of Family Court, Vijayawada for custody of the minor boy.

4 As per the recitals of the G.W.OP.No.321 of 2015, the minor boy has been under the care and custody of the petitioner herein. In order to resolve the issue, this Court is placing reliance on Section 9 of the Guardians and Wards

Act, 1890, which mandates that an application with respect to the custody of the minor shall be made to the District Court in whose territorial jurisdiction the minor ordinarily resides.

5 A perusal of the record prima facie reveals that the Court at Vijayawada has no jurisdiction to entertain the petition. Even otherwise, the respondent has to attend the Family Court, Secunderabad in view of the pendency of O.P.No.712 of 2014.

6 Having regard to the facts and circumstances of the case, the petition is allowed and G.W.O.P.No.321 of 2015 pending on the file of the Family Court at Vijayawada is withdrawn from the file of the said Court and transferred to the Family Court, City Civil Court, Secunderabad for trial and disposal in accordance with law. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 1st September, 2015

Kvsn