

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.344 of 2014

ORDER:

This petition is filed under Section 24 CPC to withdraw G.W.O.P. No.418 of 2014 from the file of Principal District Judge, Guntur and transfer the same to the file of District Judge, Ranga Reddy District at L.B. Nagar for disposal in accordance with law.

2. Heard the learned counsel for both the parties and perused the material available on record.

3. The marriage of the petitioner's daughter by name Lavanya was performed with the respondent's son by name Rajesh on 27.5.2011 at Hyderabad as per Hindu rites and caste customs. Immediately after the marriage, Lavanya joined Rajesh to lead marital life. Out of lawful wedlock, they were blessed with a son by name Syam Akshawju. Due to disputes, Lavanya and Rajesh have been residing separately. While so, the respondent i.e., paternal grandfather of the ward i.e., Syam Akshawju, filed the G.W.O.P. against the maternal grandfather, for custody of the ward.

4. In the transfer petition, it is mentioned that Syam Akshawju has been residing along with petitioner at Hyderabad. The respondent has taken a specific plea in the counter that the petitioner can attend the District Court, Guntur without any difficulty along with Syam Akshawju. It is needless to say that the court has to take into consideration the welfare of ward regardless of the legal rights of the parties to the proceedings. For better appreciation of rival contentions, it is not out of place to extract hereunder Section 9(1) of Guardian and Wards Act, which reads as follows:

9. Court having jurisdiction to entertain application

(1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

A perusal of Section 9(1) of the Act clearly demonstrates that for custody of the child, petition has to be made to the District Court within whose jurisdiction the ward is ordinarily residing. Admittedly, Syam Akshawju has been residing with his material grandfather at Hyderabad.

5. Having regard to the facts and circumstances of the case and also the scope of Section 9(1) of the Guardian and Wards Act, I am of the considered view that the relief sought by the petitioner can be granted.

6. Accordingly, the Transfer CMP is allowed. G.W.O.P. No.418 of 2014 is withdrawn from the file of the Principal District Judge, Guntur and transferred to the file of District Court, Ranga Reddy District at L.B. Nagar. As a sequel, miscellaneous petitions, if any pending in this transfer petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 18.6.2015.

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