

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.232 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw G.W.OP.No.1 of 2015 pending on the file of the Court of VII Additional District Judge at Ongole and transfer the same to the Family Court, Ranga Reddy District at L.B. Nagar.

2 Heard the learned counsel for the petitioner and the respondent 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 16.08.2001 as per Muslim 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 two sons by name Rashid Baig and Shahid Baig. The respondent filed G.W.OP.No.1 of 2015 on the file of VII Additional District Judge at Ongole for custody of the minor children.

4 The petitioner has been residing at Malkajgiri, Hyderabad along with her two minor children. The distance between Hyderabad and Ongole is nearly 350 k.m. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself and prosecute the matter at Ongole. It may not be possible for the petitioner to travel all the way from Hyderabad to Ongole to prosecute the G.W.OP. filed by the respondent.

5 At the time of arguments, both counsel, in one voice, submitted that the children are living with the petitioner at Hyderabad. In such circumstances, the petitioner deserves the relief as sought for, since Section 9 of the Guardians and Wards Act, 1890, 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.

6 Having regard to the facts and circumstances of the case, the petition is allowed and G.W.O.P.No.1 of 2015 pending on the file of the Court of VII Additional District Judge at Ongole is withdrawn from the file of the said Court and the same is transferred to the Family Court, Ranga Reddy District at L.B. Nagar for trial and disposal in accordance with law. However, the presence of the respondent before the Family Court, Ranga Reddy at L.B.Nagar is dispensed with for each and every adjournment. But, he shall appear before the said Court whenever his presence is so required. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 08.07.2015

Kvsn