

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.303 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw G.O.P.No.119 of 2014 from the file of the V Additional District Court, Nellore and transfer the same to the VI Additional District Judge Court, Markapur.

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

3. The facts leading to filing of the present petition are briefly as follows: The marriage of the petitioner was performed with one Shaik Babu, Son of the respondent in the year 2006, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined Shaik Babu to lead marital life. Out of lawful wedlock, the petitioner and Shaik Babu were blessed with 3 sons. Unfortunately, Shaik Babu died in a Motor Vehicle accident that occurred on 24.05.2011. After death of Shaik Babu, the petitioner has been residing at Devarajugattur Village, Araveedu Mandal, Prakasam District along with her children due to disputes with her in-laws. Basing on the complaint of the petitioner, the Station House Officer, Markapur registered a case against the respondent for the offence punishable under Sections 344, 417 and 364-A of IPC. The respondent herein filed G.O.P. No.119 of 2014 on the file of the V Additional District Judge, Nellore for custody of the minor children.

4. The petitioner and her children were present in the open Court. The learned counsel for the petitioner identified the petitioner and her children.

5. It is not out of place to extract hereunder Section 9(1) of Guardian and Wards Act, 1890, 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.”

6. A perusal of Section 9 (1) of the Act clearly demonstrates that G.O.P has to be filed in the Court within whose territorial jurisdiction the minors are ordinarily residing. The petitioner and her children are residing within the territorial jurisdiction of VI Additional District Judge Court, Markapur. Having regard to the facts and circumstances of the case and also the scope of Section 9 of the Act, I am of the considered view that the relief sought by the petitioner can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. G.O.P.No.119 of 2014 is withdrawn from the file of the V Additional District Judge, Nellore and transferred to the VI Additional District Judge Court, Markapur for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 30.07.2015.

GvI