

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Tr.CMP Nos.611 and 614 of 2017

COMMON ORDER :

These two transfer petitions are filed by the self-same petitioner-wife against the self-same respondent-her husband seeking to transfer both the cases viz; the O.P.No.704 on the file of the Addl.Family Court, City civil Court, at Hyderabad and O.P.No.706 of 2017 on the file of the Family Court, City Civil Court, at Hyderabad filed by her husband, to the Judge, Family Court, Miyapur.

2. The common averments in both the transfer petitions are that her marriage with the respondent was performed on 25.04.2008 at Gudimalkapur, Hyderabad and after marriage, they lead happy married life at Hyderabad and were blessed with two children. After that, the respondent and his family members subjected her to cruelty and neglected the children. She also came to know that he is living in illicit relationship with one Isha Barmata Wadhawan who is a co-employee to him. As she is unable to put up with the harassment, she filed a complaint with the Miyapur Police, who filed chargesheet in the Court of IX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur and the same was numbered as C.C.No.677 of 2017. The respondent, as a counterblast to her complaint, filed the O.P.No.704 of 2017 for divorce and also O.P.No.706 of 2017 for custody of children u/ sec.7 and 25 of the Guardian & Wards Act, 1890 in the City Civil Court at Hyderabad. Now she is residing in the flat purchased by

her husband in Madinaguda. Since her husband left her and her children and she is alone living with children, it is very difficult and inconvenient to her to attend Court proceedings at City Civil Court, Hyderabad. Hence, the petitions.

3. Heard common arguments of both sides and perused the material on record.

4. The principle enunciated in T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹ and Sumita Sing Vs. Kumar Sanjay² the paramount consideration, in transfer of matrimonial cases, is the inconvenience of the wife when compared to that of the husband.

5. Having regard to the above, both the Tr.CMPs are disposed of. Both the O.P.Nos.704 of 2017 on the file of the Addl.Family Court, City civil Court, at Hyderabad and O.P.No.706 of 2017 on the file of the Family Court, City Civil Court, at Hyderabad filed by her husband are transferred to the Judge, Family Court, Miyapur, for disposal in accordance with law. From transfer petition cause title of the respondent-husband herein shows as if at Hyderabad, whereas, in his divorce petition as address is shown at Chennai. As he has to undertake journey all through from Chennai, the trial Court is directed to post the cases on the same day for common disposal. The Judge, Family Court, Miyapur, is directed to dispense with the personal appearance of the respondent/ husband once representing through advocate unless personal appearance is

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

required for reconciliation or for giving of evidence, as the case may be.

6. Consequently, Miscellaneous Petitions, if any, pending in these Transfer Petitions, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:21.11.2017
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