

HON'BLE Dr.JUSTICE SHAMEEM AKTHER

TRANSFER CRIMINAL PETITION No.101 of 2017

ORDER:

Heard learned counsel for the parties and perused the record.

This petition is filed to withdraw and transfer F.C.M.C.No.5 of 2016 pending on the file of III Additional District Judge, Srikakulam to Family Court, Visakhapatnam.

The counsel for the petitioner would submit that respondent No.1 is residing at Visakhapatnam. There is also specific mention of the same in paragraph No.9 of the order passed in I.A.No.752 of 2014 in F.C.O.P.No.1257 of 2012 on the file of the Judge, Additional Family Court, Visakhapatnam. There are two other O.Ps. One is filed by the petitioner herein for dissolution of marriage and the other filed by respondent No.1 herein for maintenance under Hindu law.

On the other hand, learned counsel for respondent No.1 would submit respondent No.1 was driven out by the petitioner herein and she has been residing at Arasavalli, 18th ward, Srikakulam. As per the address furnished in FCOP No.1257 of 2012, the address of respondent No.1 is mentioned as Srikakulam. Even in the other O.P., the residential address of respondent No.1 is mentioned as Arasavalli village and Mandal, Srikakulam District. The record establishes that respondent No.1 has been residing in Srikakulam. The learned counsel for respondent No.1 would submit that, on legal advice, respondent No.1 filed O.P.No.1141 of 2016 for grant of maintenance under the Hindu Adoptions and Maintenance Act. As respondent No.1 is residing in Srikakulam, it causes hardship and inconvenience to her to attend Courts at Visakhapatnam in the event of transfer as prayed.

It is for respondent No.1 to choose appropriate Court to seek maintenance under the provisions of Section 125 Cr.P.C and the convenience of the petitioner herein is not required to be looked into. As there is record to show that respondent No.1 is residing in Srikakulam and the Court at Srikakulam has jurisdiction to

proceed with the maintenance application filed by respondent No.1, there are no justifiable reasons to withdraw and transfer F.C.M.C.No.5 of 2016, as prayed for by the petitioner.

The petition is devoid of merits and is accordingly dismissed. However, it is made clear that, as and when required, the petitioner herein can file an application to dispense with his presence before the III Additional District Judge, Srikakulam.

Miscellaneous petitions if any pending in the petition stand closed.

October 12, 2017
MRR

Dr.SHAMEEM AKTHER, J

