

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

TRANSFER CRIMINAL PETITION No.89 of 2017

ORDER:

Heard learned counsel for petitioner and respondents 1 and 2 and perused the record.

This Transfer Criminal Petition is filed seeking to transfer M.C.No.21 of 2016 on the file of Additional Judicial First Class Magistrate, Sanga Reddy, to the Family Court, City Civil Courts, Hyderabad, where O.P.No.23 of 2016 filed for divorce is pending.

Learned counsel for the petitioner would submit that the said O.P. was transferred to the Family Court, City Civil Courts, Hyderabad, from the Court of Senior Civil Judge, Nagarkurnool, Mahabubnagar District, and the parents, brothers and sisters of respondent No.1 are residing at Hyderabad, as such, it is convenient for her also if M.C.No.21 of 2016 is transferred to the Family Court, Hyderabad, and that there would be no conflicting orders.

On the other hand, learned counsel appearing for respondents 1 and 2 would submit that respondent No.1 is the HIV patient and she has mentioned the same in the Maintenance Case filed in the Court at Sangareddy and that nobody is there to

take care of her at Hyderabad, so, she along with respondent No.2 is living with her sister at Patancheru which is very near to the Court at Sangareddy.

Learned counsel for the petitioner would submit that the Court at Hyderabad is near to the place of residence of respondent Nos.1 and 2.

In view of the fact that respondent No.1 is suffering from HIV+ and there is no other person to take care of her except her sister, as submitted by the learned counsel for respondents 1 and 2, it is for respondent No.1 to choose the Court convenient to her and that the Court where the M.C. is pending has jurisdiction to dispose of M.C.. It is brought to the notice of this Court that in M.C.No.21 of 2016, the petitioner has remained *ex parte*, P.W.1 was examined and a few documents were also marked.

Now, learned counsel for the petitioner submits that an application to set aside the *ex parte* order in M.C. was filed and the same is pending.

Under these circumstances and as the Court at Sangareddy is convenient to respondents 1 and 2, the Transfer Criminal Petition is liable to be dismissed.

The Transfer Criminal Petition is accordingly dismissed, and the proceedings in M.C.No.21 of 2016 shall go on in the same Court.

Pending miscellaneous applications, if any, shall stand dismissed in consequence.

Dr. SHAMEEM AKTHER, J

6th OCTOBER, 2017.

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