

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.619 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw G.W.O.P.No.984 of 2016 from the file of the Judge, Family Court, Ranga Reddy District, at L.B.Nagar, and transfer the same to Family Court, Vijayawada, Krishna District, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to pass orders on merits in the absence of the respondent. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 16.06.2005 at Sri Venkateswara Swamy Kalyanamandapam, Batchupeta, Machilipatnam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son and one daughter. Due to various reasons, disputes arose between the petitioner and the respondent. The petitioner and her children filed M.C.No.276 of 2015 on the file of the Judge, Family Court, Vijayawada, against the respondent claiming maintenance under Section 125 Cr.P.C.

4. At the time of arguments, learned counsel for the petitioner submitted that the respondent herein filed O.P.No.996 of 2017 on the file of the Judge, Family Court, Vijayawada, against the petitioner for dissolution of marriage. A perusal of the record clearly demonstrates that the wards are under the custody of the petitioner. In order to appreciate the contention of the petitioner, it is not out of place to

extract hereunder Section 9 of the Guardian and Wards Act (for short 'the Act').

Section-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.”

5. A perusal of Section 9 of the Act at a glance demonstrates that a person who seeks the custody of a minor child has to file a petition in the District Court within whose territorial jurisdiction the minor has been residing. In the instant case, the children are under the custody of the petitioner, who are residing in Krishna District.

6. Having regard to the scope of Section 9 of the Act and also the facts and circumstances of the case, I am of the considered view that it is a fit case to allow the petition.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. G.W.O.P.No.984 of 2016 is withdrawn from the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar, and transferred to the file of the Family Court, Vijayawada, Krishna District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T. SUNIL CHOWDARY, J

Dt:27.06.2018
Rns

