

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN

TRANSFER CIVIL MISCELLANEOUS PETITION No.685 OF 2016

ORDER:

This is an application for transfer of I.D.O.P.No.919 of 2016 from the Court of the Principal District Judge, Guntur, to the Court of the Family Judge, City Civil Courts, Hyderabad, which is filed by the respondent/husband, under Section 10(1)(ix) and (x) of the Indian Divorce Act, 1869, seeking dissolution of marriage.

2. Notice on this application for transfer was taken by registered post with acknowledgement due on the very same address, which is shown by the respondent in his application for divorce before the Court of the Principal District Judge, Guntur. However, it has been returned with endorsement that 'the addressee is not in station'. The fact of the matter that the proceedings before the Court below stands stayed by this Court from 27.10.2016, noticing that the petitioner herein has also to take care of her school going children, who are in her custody. There is every reason for this Court to believe that the respondent is evading the process of this Court. It is, therefore, declared that the notice on the respondent has been duly served.

3. Heard the learned counsel for the petitioner in the light of the pleadings on record.

4. The couple has two children. They are living with the petitioner/wife in BHEL, Hyderabad. The plea is that the application under the Indian Divorce Act filed by the respondent/husband before the Court of the Principal District Judge, Guntur, cannot be effectively contested by the petitioner/wife.

5. Having regard to the facts and circumstances of the case, it is required that I.D.O.P.No.919 of 2016 from the Court of the Principal District Judge, Guntur, to be transferred to the Court of the Family Judge, City Civil Courts, Hyderabad, where the petitioner/wife is residing, who is taking care of her children.

6. In the result, the Transfer Civil Miscellaneous Petition is allowed transferring I.D.O.P.No.919 of 2016 from the Court of the Principal District Judge, Guntur, to the Court of the Family Judge, City Civil Courts, Hyderabad.

Miscellaneous petitions, pending if any, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

06.12.2018
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