

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.439 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.G.O.P.No.115 of 2016 from the file of the Judge, Family Court, Kurnool, and transfer the same to the file of the Family Court, Hyderabad.

2. Heard the learned counsel for the petitioner and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 08.05.2009 at Tirupati, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with one daughter. For one reason or other, bad weather prevailed in the family of petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Kurnool along with her daughter. The respondent filed F.C.G.O.P.No.115 of 2016 on the file of the Family Court, Kurnool, under Section 7 of the Guardians and Wards Act, 1890 to appoint him as a guardian of the minor child.

4. In order to appreciate the contention of the learned counsel for the petitioner, it is not out of place to extract hereunder Section 9(1) of the Guardians and Wards Act:

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.

A perusal of Section 9(1), at a glance, mandates that a person, who seeks custody of a ward, has to approach the District Court within whose territorial jurisdiction the ward is ordinarily residing. In the instant case, the ward i.e., the daughter of the petitioner is residing along with the petitioner in Kurnool.

5. Having regard to the facts and circumstances of the case and the Scope of Section 9(1) of the Guardians and Wards Act, I am of the considered view that the petition is not maintainable either on facts or in law.

6. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.



T.SUNIL CHOWDARY, J

Date: 17.07.2018
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