

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL MISCELLANEOUS APPEAL No.1029 of 2017

Date: 15.02.2018

Between :

Korinni Suresh and others

... Appellants

And

Korinni Laxmi

... Respondent

COUNSEL FOR APPELLANTS : Sri M.V. Venu

COUNSEL FOR RESPONDENT : Sri M. Ramalingeswar Reddy



THE COURT MADE THE FOLLOWING:

JUDGMENT : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This Civil Miscellaneous Appeal is arising out of the order dated 21.06.2017 in I.A.No.331 of 2017 in G.W.O.P.No.81 of 2017 on the file of the Judge, Family Court, Khammam.

The appellants have filed the above mentioned GWOP.No.81 of 2017 before the Family Court, Khammam, for declaration of appellant No.1 as guardian of the minor child – Korinni Lokesh (hereinafter referred to as “the ward”). The respondent has filed I.A.No.331 of 2017 under Section 9(1) r/w. Section 21 of C.P.C., to reject the GWOP on the ground that the Family Court at Khammam has no jurisdiction to entertain the petition. While allowing the said application by order dated 21.06.2017, the Family Court at Khammam has rendered a finding that based on the documents produced before it, it was clear that the respondent has changed the surname and parentage of the ward and that the ward is now studying in Gowtham Model School. Though the place ‘Hyderabad’ is not mentioned where the school is situated, learned counsel for the respondent submitted that the said school is situated at Hyderabad, which fact is not disputed by Mr. Venu, learned counsel for the appellants. A further finding was also rendered by the Family Court that since the date of divorce, the respondent along with the ward was living at her parents’ house at

Penchikallu, Nereducherla Mandal, Nalgonda District and that, therefore, as the ward was not living within the jurisdiction of Khammam Court, it has returned the GWOP filed by the appellants.

Mr. M.V. Venu, learned counsel for the appellants, while not seriously disputing the finding that the ward was not residing within the jurisdiction of the Family Court at Khammam, however, disputes the equivocal finding of the Family Court, Khammam, as to the place at which the ward has been presently living.

Once the finding that the ward is not living within the jurisdiction of the Family Court, Khammam, is not in dispute, the further question as to at which place the ward has been presently living is not relevant in this case. The Court below has rightly allowed I.A.No.331 of 2017 by holding that it has no jurisdiction to try the case as the ward is not living within its jurisdiction. It is for the appellants to ascertain, if necessary, by issuing a notice to the respondent to indicate as to the place within the jurisdiction of which Court the ward is living. Based on the information elicited from the respondent, the appellants are entitled to represent the existing GWOP or file a fresh GWOP before the appropriate Court.

Subject to the liberty given as above, the Civil Miscellaneous Appeal is dismissed. No order as to costs. As a sequel, CMA.MP.No.1764 of 2017 shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

15.02.2018.
Msr



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