

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.78 of 2019

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908, is filed by the petitioner/wife, requesting to withdraw O.P.No.2708 of 2018 from the file of the Family Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the Family Court at Warangal, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. On 21.10.2019, there was no representation for the respondent/husband and hence, the matter was directed to be listed today under the caption "For Orders". Despite listing this matter today under the caption 'For Orders', there is no representation for the respondent/husband.

3. The learned counsel for the petitioner/wife would submit that the petitioner/wife lodged a complaint against the respondent/husband alleging dowry harassment and the same was registered as F.I.R.No.416 of 2018 for the offences punishable under Sections 290, 323, 498A and Sections 3 & 4 of the Dowry Prohibition Act, 1961. The respondent/husband filed O.P.No.2708 of 2018 before the Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad, against the petitioner/wife for divorce. The petitioner/wife is staying in

Warangal along with her two children. It will be difficult for the petitioner/wife to travel from Warangal to Hyderabad to attend the proceedings in the Court at Hyderabad and ultimately prayed to withdraw O.P.No.2708 of 2018 from the file of the Family Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the Family Court at Warangal.

4. The material placed on record reveals that the respondent/husband has filed O.P.No.2708 of 2018 on the file of Family Court, Ranga Reddy District at L.B.Nagar, under Section 13(1)(1a) of the Hindu Marriage Act, 1955, seeking divorce. It has been submitted the petitioner/wife has got two children and she is residing at Warangal. Under these circumstances, it is relevant to state that Section 19 of the Hindu Marriage Act, 1955, has been amended in the year 2003, by insertion of proviso (iii)(a). The amended Section 19(iii)(a) of the Act gives special preference to the wife to file a petition and prosecute the same, before the Court within whose jurisdiction she resides. Law is well settled that in the cases of this nature, convenience of the wife is of paramount importance. The petitioner/wife is residing at Warangal and certainly, her attendance before the Court at Hyderabad causes inconvenience to her. She has to travel from Warangal to Hyderabad, i.e., around 140 kilometres, along with two minor children. Though small inconvenience may be caused to the respondent/husband in attending the Court at Warangal, the convenience of the wife should be preferred and shall

prevail over the inconvenience, if any, which may be caused to the husband. Accordingly, this Court finds that sufficient cause is shown by the petitioner/wife for granting the relief claimed by her in this petition, more particularly in the light of the fact that the respondent/husband, having not entered appearance, is not resisting the application.

5. In the result, this Transfer Civil Miscellaneous Petition is allowed and O.P.No.2708 of 2018 is withdrawn from the file of the Family Court, Ranga Reddy District at L.B.Nagar, and transferred to the Family Court at Warangal, for trial and disposal in accordance with law.

Miscellaneous petitions, if any, pending in this Transfer CMP, shall stand closed. There shall be no order as to costs.

28th October, 2019
Bvv

Dr. SHAMEEM AKTHER, J