

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.79 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 F.C.O.P.No.219 of 2018 from the file of Family Court, City Civil Court, Secunderabad, and transfer the same to the Family Court at Warangal, to try and dispose of along with F.C.O.P.No.158 of 2018, in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. As there was no representation for the respondent/husband on 29.10.2019, the matter was directed to be listed under the caption "For Orders". Today, despite listing this matter 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 marriage between the petitioner/wife and the respondent/husband was performed on 28.08.2016 at Warangal. Subsequently, disputes arose between the couple. Finally, petitioner/wife was necked out from her matrimonial home. The respondent/husband filed F.C.O.P.No.219 of 2018 before the Family Court, City Civil Court, Secunderabad, seeking divorce. Left with no other alternative, the petitioner/wife filed O.P.No.158 of 2018

before the Family Court, Warangal, for restitution of conjugal rights. The petitioner/wife also filed M.C.No.43 of 2018 before the Family Court, Warangal, seeking maintenance and D.V.C.No.20 of 2018 before the Additional Judicial Magistrate of First Class, Warangal, seeking various reliefs. The distance between Warangal and Secunderabad is about 150 kilometres and it will be difficult for the petitioner/wife to travel from Warangal to Secunderabad, all alone, to attend the proceedings in the Court at Secunderabad and ultimately prayed to withdraw F.C.O.P.No.219 of 2018 from the file of the Family Court, City Civil Court, Secunderabad, and transfer the same to the Family Court at Warangal, which is convenient to her.

4. The material placed on record reveals that the respondent/husband has filed F.C.O.P.No.219 of 2018 before the Family Court, City Civil Court, Secunderabad, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking divorce, and the petitioner/wife filed a F.C.O.P.No.158 of 2018 before the Family Court, Warangal, under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights. The petitioner/wife is residing at her parents' house at Warangal. She has to travel about 150 kilometres from Warangal to Secunderabad to attend the proceedings in F.C.O.P.No.219 of 2018, which certainly causes inconvenience to her. Further, the provisions of Section 9 of the Hindu Marriage Act, 1955, as amended in

the year 2003, gives liberty to the wife to file a petition under the provisions of the said Act within the local limits of the Court where she is residing on the date of presentation of the petition for restitution of conjugal rights. Thus, the statute gives special status to the wife insofar as the place of suing. In the cases of this nature, 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, having entered appearance, remained absent to put forth his contentions before this Court.

5. In the result, this Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.219 of 2018 is withdrawn from the file of Family Court, City Civil Court, Secunderabad, and transferred to the Family Court at Warangal, for trial and disposal along with F.C.O.P.No.158 of 2018, in accordance with law.

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

Dr. SHAMEEM AKTHER, J

13th November, 2019
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