

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

TRANSFER CIVIL MISCELLANEOUS PETITION No.146 of 2019

ORDER:

This Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, 1908, by the petitioner-wife, seeking to withdraw O.S.No.152 of 2018, pending on the file of Senior Civil Judge at Narayanapet, Mahabubnagar District and transfer the same to the Court of Additional Family Court, City Civil Court, Hyderabad, to be tried along with F.C.O.P.No.218 of 2019.

2. Heard the learned counsel for the petitioner-wife, the learned counsel for the respondent-husband and perused the record.

3. Learned counsel for the petitioner-wife submitted that the petitioner-wife resides in Hyderabad and is pursuing her IV year MBBS Course at Shadan College, Hyderabad. The respondent-husband is working in Infosys Pocharam Campus, Hyderabad. The petitioner-wife filed F.C.O.P.No.218 of 2019 in the Court of Additional Family Court, City Civil Court, Hyderabad, for restitution of conjugal rights and M.C.No.222 of 2018, in the Court of Additional Family Court, Nampally, Hyderabad, for maintenance and the same are pending. The petitioner-wife also filed D.V.C.No.27 of 2019 on the file of III Metropolitan Magistrate, Hyderabad, and on a complaint lodged by her, a case in FIR.No.827 of 2018 was registered under Section 498-A of I.P.C and Sections 3 and 4 of Dowry Prohibition Act in Mailardevpally Police Station, Cyberabad. The distance between Hyderabad and Mahabubnagar is more than 150 Kms. It is causing much

inconvenience for the petitioner-wife to travel more than 150 kms from Hyderabad to Narayanapet, Mahabunnagar, all alone, to defend the case filed by the respondent-husband in the Court at Narayanapet, Mahabubnagar, and ultimately prayed to transfer O.S.No.152 of 2018 pending on the file of Senior Civil Judge at Narayanapet, Mahabubnagar, to the Additional Family Court, City Civil Court, Hyderabad, which is convenient to her, to be tried along with FCOP.No.218 of 2019.

4. On the other hand, learned counsel for the respondent-husband would submit that before filing the suit in O.S.No.152 of 2018, he made negotiations and requested the petitioner-wife to join his company, which she failed to do. Therefore, this compelled respondent-husband to file a suit for dissolution of marriage in the Court of Senior Civil Judge at Narayanapet, Mahabubnagar. The said Court is convenient to the petitioner-wife and no hardship would be caused to her and ultimately prayed to dismiss the petition.

5. As conceded by both sides, both the parties to the suit O.S.No.152 of 2018, pending on the file of the Court of Senior Civil Judge at Narayanapet, are residing at Hyderabad. The wife filed F.C.O.P.No.218 of 2019, before the Family Court, City Civil Court, Hyderabad for restitution of conjugal rights. The contentions that would be raised in both the cases would be similar and to avoid conflicting decisions, it is appropriate that both the cases are dealt with and disposed of by one court. The petitioner-wife also filed M.C.No.222 of 2018 for maintenance and D.V.C.No.27 of 2019 in the Courts at Hyderabad and the same are pending. Further,

FIR.No.827 of 2018 was registered under Section 498-A of I.P.C and Sections 3 and 4 of Dowry Prohibition Act in Mailardevpally Police Station, Cyberabad against the respondent-husband and his family members. The petitioner-wife is pursuing her IV year MBBS Course at Shadan College situated at Hyderabad. Admittedly, the Court of Senior Civil Judge situated at Narayanapet, Mahabubnagar is more than 150 Kms from the place of residence of the petitioner-wife at Hyderabad. It has been submitted that the petitioner wife is residing at Hyderabad and it will be very difficult for her to travel more than 150 kms, all alone, to attend the proceedings in the Court of Senior Civil Judge, Narayanapet, Mahabubnagar. 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 Hyderabad and certainly, her attendance before the Court at Narayanapet, Mahabubnagar District, causes inconvenience to her. She has to travel from Hyderabad to Narayanapet, Mahabubnagar, which is more than 150 kilometres. Though small inconvenience may be caused to the respondent/husband in attending the Court at Hyderabad, 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

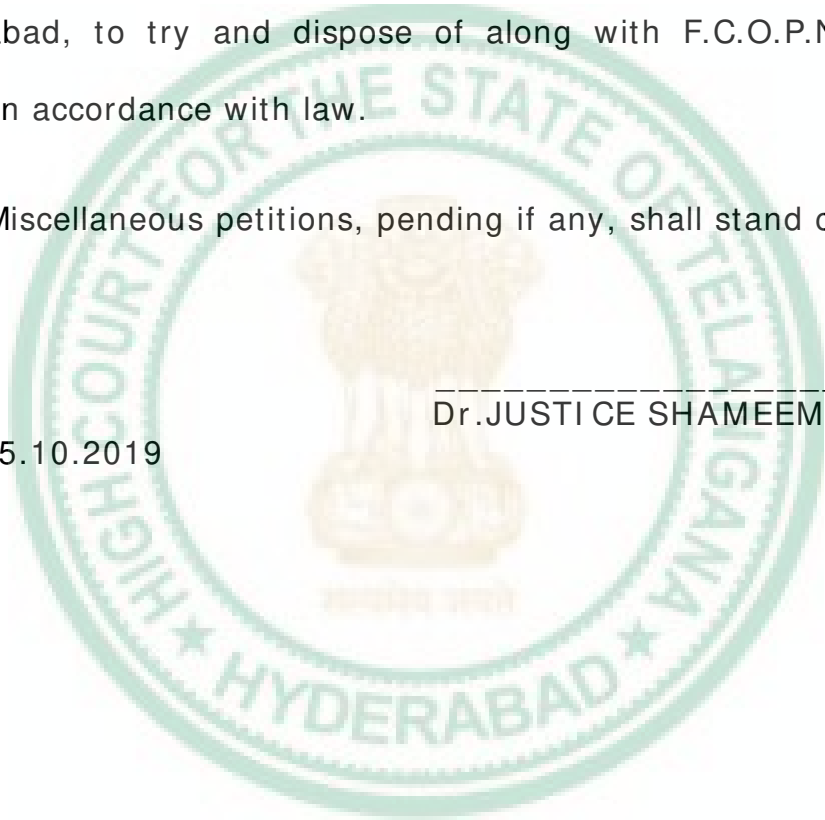
petitioner/wife to grant the relief claimed in this petition. Convenience of the wife is the prime consideration. Accordingly, this Court finds that sufficient cause is shown by the petitioner-wife for granting the relief claimed by her in this petition.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed and O.S.No.152 of 2018 is withdrawn from the file of the Court of Senior Civil Judge at Narayanapet, Mahabubnagar, and transferred to the Court of Additional Family Court, City Civil Court, Hyderabad, to try and dispose of along with F.C.O.P.No.218 of 2019, in accordance with law.

Miscellaneous petitions, pending if any, shall stand closed. No costs.

Date:25.10.2019
grk

Dr.JUSTICE SHAMEEM AKTHER



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Dated: 25.10.2019

