

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.166 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.335 of 2019 pending on the file of Judge, Family Court, City Civil Court at Secunderabad, and transfer the same to the Family Court at Sangareddy, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. The learned counsel for the petitioner/wife filed USR No.57510 of 2019 stating that notice sent to the sole respondent/husband returned with the postal endorsement 'unclaimed'. Hence, the service to the respondent/husband held sufficient.

3. The learned counsel for the petitioner/wife would submit that marriage between the petitioner/wife and the respondent/husband was performed on 12.02.2016 at Yeddumylaram, Medak district. Out of their wedlock, they were blessed with a male child by name Nithik. Subsequently, disputes arose between the couple. Finally, the petitioner/wife left the company of the respondent/ husband and started living with her mother at her parents' house at Yeddumylaram Village, Medak District. Subsequently, the respondent/husband filed the subject O.P.No.335 of 2019 before the

Family Court, City Civil Court, Secunderabad, seeking divorce. Left with no other alternative, the petitioner/wife filed O.P.No.96 of 2019 before the Senior Civil Judge, Medak District at Sangareddy, for restitution of conjugal rights. The distance between Sangareddy to Secunderabad is about 75 kilometres and it will be difficult for her to travel from Sangareddy to Secunderabad, all alone, to attend the proceedings in the Court at Secunderabad and ultimately prayed to withdraw O.P.No.335 of 2019 pending on the file of the Judge, Family Court, City Civil Court at Secunderabad, and transfer the same to the Family Court, Medak District at Sangareddy, which is convenient to her.

4. The material placed on record reveals that the respondent/husband has filed O.P.No.335 of 2019 before the Judge, Family Court, City Civil Court at Secunderabad, under Section 13(1)(ia)&(ib) of the Hindu Marriage Act, 1955, seeking divorce, and the petitioner/wife filed O.P.No.96 of 2019 for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, before the Senior Civil Judge, Medak District at Sangareddy. The petitioner/wife is a housewife and residing at Yeddumylaram village, Medak district. She has to travel about 75 kilometres from Yeddumylaram village to Secunderabad to attend the proceedings in O.P.No.335 of 2019, 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/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.335 of 2019 pending on the file of Judge, Family Court, City Civil Court, Secunderabad, is withdrawn and transferred to the Family Court, Medak District at Sangareddy, 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.

Dr. SHAMEEM AKTHER, J

11th November, 2019
Bvv/Vvr