

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.198 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.287 of 2019 from the file of the Additional Family Court, Malkajgiri and transfer the same to the Family Court, Warangal and conduct joint trial along with F.C.O.P.No.386 of 2019 and M.C.No.98 of 2019.

2. Heard the learned counsel for the petitioner/wife and perused the record. As there was no representation for the respondent/husband on 31.10.2019, the matter was directed to be listed today 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 01.03.2017 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.287 of 2019 before the Additional Family Court, Malkajgiri, seeking divorce. Left with no other alternative, the petitioner/wife filed F.C.O.P.No.386 of 2019 before the Family Court, Warangal, for restitution of conjugal rights. The petitioner/wife also filed M.C.No.98 of 2019 before the Family Court, Warangal, seeking maintenance and D.V.C.No.62 of 2019 before the I Additional Judicial Magistrate

of First Class, Warangal, seeking various reliefs. The distance between Warangal and Malkajgiri is about 160 kilometres and it will be difficult for the petitioner/wife to travel from Warangal to Malkajgiri, all alone, to attend the proceedings in the Court at Malkajgiri and ultimately prayed to withdraw F.C.O.P.No.287 of 2019 from the file of the Additional Family Court, Malkajgiri 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.287 of 2019 before the Additional Family Court, Malkajgiri, under Section 13(1)(a) of the Hindu Marriage Act, 1955, seeking divorce, and the petitioner/wife filed FCOP No.386 of 2019 for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, before the Family Court at Warangal. The petitioner/wife is residing at her parents' house at Warangal. She has to travel about 160 kilometres from Warangal to Malkajgiri to attend the proceedings in F.C.O.P.No.287 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, having received notice did not appear before this Court to putforth his contentions.

5. In the result, this Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.287 of 2019 is withdrawn from the file of Additional Family Court, Malkajgiri, and transferred to the Family Court at Warangal, for trial and disposal in accordance with law.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Date: 07.11.2019
ssp

Dr. SHAMEEM AKTHER, J

