

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.206 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.16 of 2019 from the Family Court, City Civil Court, Hyderabad, and transfer the same to the Court of II Additional Family Judge, Ranga Reddy District at Kukatpally, to try along with F.C.O.P.No.2559 of 2018, in accordance with law.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the petitioner/wife would submit that the marriage between the petitioner/wife and the respondent/husband was performed on 03.06.2017 at Quthbullapur Mandal, Medchal District. Subsequently, disputes arose between the couple. On 17.07.2017, the petitioner/wife was sent to her parental home by the respondent/husband with an assurance to get her back, but the respondent/husband abandoned her. Subsequently, the petitioner/wife filed F.C.O.P.No.2559 of 2018 on the file of II Additional Family Judge, Ranga Reddy District at Kukatpally, seeking restitution of conjugal rights. The petitioner/husband filed F.C.O.P.No.16 of 2019 before the Family Court, City Civil Court, Hyderabad, seeking divorce.

To avoid conflicting decisions in the petitions filed by the petitioner/wife and respondent/husband, both the matters are required to be heard and disposed of together. The said course would also save the valuable time of the Court and would be helpful in minimising the financial expenses of both the parties and ultimately prayed to withdraw F.C.O.P.No.16 of 2019 from the Family Court, City Civil Court, Hyderabad, and transfer the same to the Court of II Additional Family Judge, Ranga Reddy District at Kukatpally, to try along with F.C.O.P.No.2559 of 2018, in accordance with law.

4. On the other hand, the learned counsel for the respondent/husband vehemently contended that the Court at Kukatpally to which the petition filed by the respondent/husband is sought to be transferred, is overburdened with work. Therefore, it may not be possible to get speedy justice to the parties in that Court. Hence, it is not appropriate to transfer F.C.O.P.No.16 of 2019 filed by the respondent/husband to the Court of II Additional Family Judge, Ranga Reddy District at Kukatpally and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition.

5. There is no dispute that the F.C.O.P.No.16 of 2019 filed by the respondent/husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking divorce is pending on the file of the Family Court, City Civil Court, Hyderabad, and

F.C.O.P.No.2559 of 2018 filed by the petitioner/wife under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights is pending on the file of II Additional Family Judge, Ranga Reddy District at Kukatpally. These two matters relate to the marital disputes between the petitioner/wife and the respondent/husband. Considering the issues involved in the two cases, it is in the interest of both the parties that both the cases should be tried and disposed of by a single forum, be it the Family Court, City Civil Court, Hyderabad, or the II Additional Family Court, Ranga Reddy District at Kukatpally. The said course would avoid multiplicity of proceedings and conflicting decisions, and would save the valuable time of the Court and also helpful in minimising the financial expenses of both the parties. Therefore, the issue for determination is as to which of the two Courts should be preferred.

6. The provisions of Section 19 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, for adjudication of her marital disputes. 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.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.16 of 2019 is withdrawn from the Family Court, City Civil Court, Hyderabad, and transferred to the Court of II Additional Family Judge, Ranga Reddy District at Kukatpally, to try along with F.C.O.P.No.2559 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

22nd November, 2019
Bvv