

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.208 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.455 of 2018 from the Family Court, Warangal, and transfer the same to the Court of Senior Civil Judge, Bhongir, for trial and disposal 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 petitioner/wife filed M.C.No.18 of 2017 against the respondent/husband before the Additional Judicial Magistrate of First Class, Bhongir. The respondent/husband filed the subject O.P.No.455 of 2018 before the Family Court, Warangal, seeking divorce. Warangal is far away from the place where the petitioner/wife is residing now. The petitioner/wife has no source of income and she is taking shelter at her parental house at Bhongir. It will be difficult for her to travel around 100 kilometres from Bhongir to Warangal to attend the Court at Warangal and ultimately prayed to withdraw O.P.No.455 of 2018 pending on the file of the Family Court, Warangal, and transfer the same to the Court of Senior Civil Judge, Bhongir, which is convenient to her. Alternatively, the learned counsel for the petitioner/wife would contend that the presence of the

petitioner/wife before the Family Court, Warangal, may be dispensed with on each and every date of adjournment.

4. The learned counsel for the respondent/husband would contend that there are no sufficient grounds to grant the relief sought by the petitioner/wife. The distance between Bhongir and Warangal is only 80 kilometres. The couple have no issues. No inconvenience would be caused to the petitioner/wife to travel from Bhongir to Warangal to attend the Court at Warangal and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition. In support of his contentions, the learned counsel for the respondent/husband had relied on a decision of the erstwhile common High Court for the States of Telangana and Andhra Pradesh reported in Chejerla Srilakshmi Vs. Chejerla Ramesh Babu¹.

5. As seen from the submissions and the material placed on record, the distance between Bhongir and Warangal is only 80 kilometres. Further, the petitioner/wife has no dependents or any person to take care of. Considering a case of similar nature, the erstwhile common High Court for the States of Telangana and Andhra Pradesh in Chejerla Srilakshmi's case supra, held that even if the wife was unable to appear before the Court for recording her cross-examination, she may apply for appointment of advocate commissioner for the same and that as held in Santhini Vs. Vijaya Venkatesh { (2018) 1 SCC 1 } , the Court has to take note of inconvenience of the parties but not the

¹ 2018 (4) ALD 162

inconvenience of the wife alone and that the transfer petitions are to be considered on their own merits and not to be disposed of in a routine manner. In the instant case, except the ground that the Court at Warangal is 80 kilometres away from the place of residence of the petitioner/wife, there are no other grounds to grant the relief sought by the petitioner/wife. As far as the travelling and incidental expenses are concerned, those are generally ordered to be taken care of by the respondent/husband. Merely because the Court at Warangal is 80 kilometres away from the place of residence of the petitioner/wife, the relief sought by the petitioner/wife in this Transfer Civil Miscellaneous Petition is impermissible. Under these circumstances, there are no justifiable grounds to allow this Transfer Civil Miscellaneous Petition.

6. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer CMP, shall stand closed.

Dr. SHAMEEM AKTHER, J

13th December, 2019
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