

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.210 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.274 of 2019 pending on the file of the Family Court, Warangal, and transfer the same to the Court of II Additional Family Judge-cum-XV Additional District Judge, Ranga Reddy District at Kukatpally, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. Notice to the respondent/husband through Court and also through the counsel for the petitioner/wife returned with postal endorsements 'Addressee refused' and 'Addressee un-claimed, returned to Sender'. Therefore, service on the respondent is held sufficient. Despite the matter being listed today under the caption 'for orders', there is no representation for the respondent/husband.

3. The learned counsel for the petitioner/wife would submit that marriage between the petitioner/wife and the respondent/husband was performed on 10.05.2009 at Hyderabad and they were blessed with a daughter. Subsequently, the respondent/husband, on the pretext that she did not bring any dowry and share in the properties of her father and also gave birth to a female child, started harassing the petitioner/wife. Vexed with his cruel attitude, the petitioner/wife

left her matrimonial home and has been staying with her parents at Hyderabad. Subsequently, the respondent/husband filed O.P.No.274 of 2019 before the Family Court, Warangal, under Section 13(1)(ia)&(ib) of the Hindu Marriage Act, 1955 seeking divorce. The petitioner/wife is residing at Hyderabad. She has no source of income and she is dependent on her age old parents. It will be difficult for her to travel around 150 kilometres from Hyderabad to Warangal, along with a minor child, to attend the Court at Warangal and ultimately prayed to withdraw O.P.No.274 of 2019 pending on the file of the Family Court, Warangal, and transfer the same to the II Additional Family Court-cum-XV Additional District Judge, Ranga Reddy district at Kukatpally, which is convenient to her.

4. The material placed on record reveals that the respondent/husband has filed O.P.No.274 of 2019 before the Family Court, Warangal, under Section 13(1)(ia)&(ib) of the Hindu Marriage Act, 1955, seeking divorce. The petitioner/wife contends that she is residing at Hyderabad and is dependent on her age old parents and that she has no source of income. She has to travel around 150 kilometres from Hyderabad to Warangal to attend the proceedings in O.P.No.274 of 2019, which certainly causes inconvenience to her. 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 Warangal causes inconvenience to her. She has to travel from Hyderabad to Warangal, i.e., around 150 kilometres, along with her minor child. 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 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.274 of 2019 is withdrawn from the file of the Family Court, Warangal, and transferred to the II Additional Family Court-cum-XV Additional District Judge, Ranga Reddy district at Kukatpally, 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

13th November, 2019
Bvv/Vvr