

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.9 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.462 of 2018 from the file of the Family Court, Warangal and transfer the same to the Family Court, Ranga Reddy District to be tried along with F.C.O.P.No.4 of 2019.

2. Heard learned counsel for the petitioner/wife, learned counsel for the respondent/husband and perused the record.

3. Learned counsel for the petitioner/wife would submit that the petitioner/wife has filed F.C.O.P.No.4 of 2019 under Section 7 of the Family Courts Act, 1984 read with Section 9 of Hindu Marriage Act before the Family Court, Ranga Reddy District at L.B. Nagar, for restitution of conjugal rights and also filed a criminal case against the respondent/husband before the Women Police Station, Saroornagar. It is also submitted that identical issues emerge in both the O.Ps. and therefore, the Court at L.B. Nagar is convenient to the petitioner/wife and ultimately prayed to allow the Transfer Civil Miscellaneous Petition.

4. Learned counsel for the respondent/husband would submit that the respondent/husband is residing at Singapore. He is being represented by his father, who met with an accident and he has some impediment to travel from Warangal to the Court at

L.B. Nagar, Ranga Reddy District. Earlier both the parties resided at Warangal. A false address of the petitioner is given at Hyderabad and on false grounds, the transfer is sought and ultimately prayed to dismiss the transfer petition.

5. There is no dispute that F.C.O.P.No.462 of 2018 filed by the respondent/husband under Section 13(1)(a) of the Hindu Marriage Act, 1955, seeking divorce is pending on the file of the Family Court, Warangal, and F.C.O.P.No.4 of 2019 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 the Family Court, Ranga Reddy District at L.B. Nagar. These two matters relate to the marital disputes between the petitioner/wife and the respondent/husband.

6. There is also no dispute with regard to the respondent/husband residing at Singapore and the father of the respondent/husband is suffering with accidental injuries and sustained some disability. The specific case of the petitioner/wife is that she is residing at Hyderabad. There are other cases pending at Hyderabad, more particularly, F.C.O.P.No.4 of 2019 which is filed by the petitioner/wife for restitution of conjugal rights, in which similar issues emerged between the parties to the dispute. Those issues are required to be determined by any one of the Courts having jurisdiction to avoid conflicting decisions. Furthermore, when the petitioner/wife has stated that she has changed her residence and she has got other cases at Hyderabad, her request to

transfer the case can be accepted. As far as the representation of the respondent by GPA is concerned, any person who is physically fit to travel from Warangal to Hyderabad can be appointed by the respondent/husband to prosecute his O.P. Moreover, as the respondent is residing at Singapore, it makes no difference, whether the cases are proceeded either in Warangal or in Hyderabad.

7. 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.

8. Under these circumstances, this Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.462 of 2018 is withdrawn from the file of the Family Court, Warangal, and transferred to the Family Court, Ranga Reddy District, for trial and disposal, in accordance with law.

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

Dr. SHAMEEM AKTHER, J

Date: 06.02.2020
ssp

