

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

TR.C.M.P.NO. 13 OF 2020

Between:

Vengala Krishna Geetha, W/o. Sri Raj Kumar, D/o. Kyatam Daiva Karuna, Aged 26 years, R/o. Q.Tr. No. T2-220, Near Sirke Bus Stand, 8-Incline Colony, Godavarikhani, Peddapally District. (Karimnagar):

...PETITIONER

AND

Vengala Raj Kumar, S/o. Sri Shankaraiah, Aged 29 Years, R/o. Nambala Village, Rebbana Mandal, Kumaram Bheem Asifabad, Adilabad District

...RESPONDENT

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to withdraw H.M.O.P.No. 25 of 2019 on the file of Senior Civil Judge, at Asifabad, Adilabad District, and to transfer the same to the Court of the Senior Civil Judge, at Peddapally, Karimnagar, and disposal in accordance with Law, in the interest of justice.

I.A.NO. 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceeding in H.M.O.P.No. 25 of 2019 on the file of Senior Civil Judge, at Asifabad, Adilabad District, pending disposal of the present transfer civil miscellaneous petition, in the interest of justice.

Counsel for the Petitioner : SRI. ARUN KUMAR DODDLA

Counsel for the Respondents : NONE APPEARED

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

TRANSFER C.M.P.No.13 of 2020

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908, is filed by the petitioner/wife, seeking to withdraw H.M.O.P.No.25 of 2019 from the file of the Senior Civil Judge's Court, Asifabad, Adilabad District and transfer the same to the file of Senior Civil Judge's Court, at Peddapalli, Karimnagar, for trial and disposal, in accordance with law.

2. Heard the learned counsel for the petitioner and perused the record. In spite of service of notice, there is no representation for the respondent.

3. The learned counsel for the petitioner/wife would contend that the marriage between the petitioner/wife and the respondent/husband was performed on 02.04.2016 at Godavarikhani. At the time of marriage, parents of the petitioner/wife paid an amount of Rs.20,00,000/- and 18 tolas of gold towards dowry. Subsequently, the respondent/husband started harassing the petitioner/wife physically and mentally demanding additional dowry upon instigation of his family members. During their wedlock, they were blessed with a baby girl, who is now aged about 1½ year. The respondent/ husband and his parents tortured the petitioner/wife on the ground that she gave birth to a baby girl and necked out her and the baby girl from the matrimonial home. Left with no other alternative,

the petitioner/wife went to the house of her parents at Peddapalli and started living there. Unable to bear the harassment, the petitioner/wife lodged a complaint with Peddapalli Police Station, Peddapalli District against the respondent/husband and his family members, which was registered as Crime No.311 of 2018 for the offences punishable under Sections 498-A and 506 of IPC and Section 4 of Dowry Prohibition Act, 1961. The petitioner/wife also filed DVC No.6 of 2019 before the Judicial First Class Magistrate, Peddapalli, Karimnagar District. As a counter blast, the respondent/husband filed the subject H.M.O.P.No.25 of 2019 before the Senior Civil Judge's Court, Asifabad, Adilabad District, under Section 9 of Hindu Marriage Act, 1955, seeking restitution of conjugal rights. The distance between her place of residence i.e., Peddapalli and Asifabad, is about 112 kilometres. It is difficult for the petitioner/wife to travel from her residence to Asifabad, along with the child or leaving her at home, to defend the subject H.M.O.P.No.25 of 2019, and ultimately prayed to withdraw H.M.O.P.No.25 of 2019 from the file of Senior Civil Judge's Court, Asifabad, Adilabad District and transfer the same to the file of Senior Civil Judge's Court, Peddapalli, Karimnagar, which is convenient to her.

4. In view of the above submissions, the point that arises for determination is:

"Whether the subject H.M.O.P.No.25 of 2019 pending on the file of the Senior Civil Judge's Court, Asifabad, Adilabad District, be withdrawn and transferred to the file of Senior Civil Judge's Court, Peddapalli, Karimnagar?"

5. **POINT:-** The material placed on record reveals that the respondent/husband filed the subject H.M.O.P.No.25 of 2019 before the Senior Civil Judge, Asifabad, Adilabad District, against the petitioner/wife under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights. The petitioner/wife has got a baby girl. The petitioner/wife is residing at Peddapalli. She has to travel about 112 kilometres from her residence to Asifabad, to defend the subject OP, along with the child or leaving her at home. In both the circumstances, it causes hardship and inconvenience to the petitioner/wife. 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 and the child, is of paramount importance. It is also relevant to state that leaving the child at Peddapalli or travelling with the child to Asifabad to attend the subject O.P, may jeopardise the interest of the child. If the petitioner/wife travels to Asifabad along with the child, the child will be exposed to health hazards. In such circumstances, it causes much hardship to the child as well as mother. Though small inconvenience may be caused to the respondent/husband in attending the Court at Peddapalli, the convenience of the wife should be preferred and shall prevail over the inconvenience, if any, which may be caused to the husband. In the interest of the child as well as the

petitioner/wife, the request of the petitioner/wife can be accepted. Under these circumstances, this Court finds that sufficient cause is shown by the petitioner/wife for granting the relief claimed by her in this petition.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.25 of 2019 is withdrawn from the file of the Senior Civil Judge, Asifabad, Adilabad District, and transferred to the file of Senior Civil Judge's Court, at Peddapalli, Karimnagar District, for trial and disposal, in accordance with law. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

//TRUE COPY//

Sd/-CH.VENKATESWARULU
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Senior Civil Judge, Asifabad, Adilabad District.
2. The Senior Civil Judge at Peddapalli, Karimnagar District..
3. One cc to Sri Arun Kumar Doddla, Advocate (OPUC)
4. Two CD Copies



HIGH COURT

DATED:24/08/2020



ORDER

TRCMP.No.13 of 2020

Allowing the Tr.CMP
Without costs.

ADJ (5)
10/9/2020