

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.25 of 2020

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 H.M.O.P.No.96 of 2019 from the Court of Senior Civil Judge, Karimnagar, and transfer the same to the Court of Senior Civil Judge, Kamareddy, 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 marriage between the petitioner/wife and the respondent/husband was performed on 02.05.2007 at Kamareddy. During their wedlock, the couple are blessed with one female child. Subsequently, disputes arose between the couple and the petitioner/wife was necked out from her matrimonial home. The petitioner/wife is presently residing at the mercy of her parents at their house at Kamareddy. She has no financial support to meet the litigation expenses. The distance between Kamareddy and Karimnagar is around 100 kilometres and it is inconvenient for her to travel every time from Kamareddy to the Court at Karimnagar to defend the subject HMOP No.96 of 2019 and ultimately prayed to withdraw HMOP No.96 of 2019 from the Court of Senior Civil Judge,

Karimnagar, and transfer the same to the Court of Senior Civil Judge, Kamareddy, for trial and disposal in accordance with law.

4. On the other hand, the learned counsel for the respondent/husband would contend that the petitioner/wife harassed the respondent/husband mentally. Vexed with the attitude of the petitioner/wife, the respondent/husband filed the subject HMOP No.96 of 2019 on the file of the Senior Civil Judge, Karimnagar. There are no justifiable grounds to grant the relief claimed by the petitioner/wife in this transfer petition and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition.

5. The petitioner/wife is seeking transfer of the subject HMOP No.96 of 2019 from the Court of Senior Civil Judge, Karimnagar to the Court of Senior Civil Judge, Kamareddy, mainly on the ground that she has no financial capability to undertake travel from Kamareddy to the Court at Karimnagar and meet the litigation expenses, the Court at Karimnagar is far away from the place of her residence and it is causing inconvenience to her to attend the Court at Karimnagar on every date of hearing.

6. Here, it is apt to refer to the decision of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh reported in Chejerla Srilakshmi Vs. Chejerla Ramesh Babu¹, wherein, the erstwhile common High Court for the States of Telangana and Andhra Pradesh,

¹ 2018 (4) ALD 162

relying on various decisions of the Hon'ble Apex Court, held as under:

“The Apex Court took note of inconvenience being caused to the parties but not the inconvenience to the wife alone, considering the facts and circumstances of the case adverted to the earlier judgment rendered in “Ram Gulam Pandit v. Umesh J. Prasad” and “Rajwinder Kaur v. Balwinder Singh” (as referred in the judgment) and opined that all the authorities are based on the facts of the respective cases and they do not lay down any particular law which operates as a precedent. Thereafter, it noted that taking advantage of the leniency shown to the ladies by this Court, number of transfer petitions are filed by women and, therefore, it is required to consider each petition on merit. Then, the Court dwell upon the fact situation and directed that the husband shall pay all travel and stay expenses to the wife and her companion for each and every occasion whenever she was required to attend the Court. From the aforesaid decision, it is quite vivid that the Court felt that the transfer petitions are to be considered on their own merits and not to be disposed of in a routine manner.”

7. In the instant case, the grounds put forth by the petitioner/wife for the transfer of the case filed by the respondent/husband is that she has no financial capability and that it is inconvenient for her to travel from Kamareddy to Karimnagar to attend the proceedings in the Court at Karimnagar. While dealing with similar situations, this Court and the Hon'ble Apex Court were of the opinion that in a petition to transfer a case from one Court to another Court under the provisions of Hindu Marriage Act, 1955, it is the inconvenience of both the parties that is to be taken into consideration, but not the inconvenience to the wife alone and that transfer petitions

are to be considered on their own merits and not to be disposed of in a routine manner. Normally this Court is inclined to allow the applications of this nature, where there are genuine reasons/circumstances to transfer the case from one Court to another. As far as the facts and circumstances of the instant case are concerned, the inconvenience said to be caused to the petitioner/wife to attend the Court at Karimnagar cannot be a ground to grant the relief sought by her in this petition. The distance between Kamareddy and Karimnagar is only 100 kilometres and the petitioner/wife can undertake the travel. As far as the financial expenses are concerned, the petitioner/wife can seek appropriate relief in the pending HMOP No.96 of 2019. There are no other justifiable grounds in this petition. Under these circumstances, this Court is of the view that grounds raised by the petitioner/wife do not justify the relief sought by her in this petition. The Transfer Civil Miscellaneous Petition is devoid of merit and is liable to be dismissed.

8. 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.

25th February, 2020
Bvv

Dr. SHAMEEM AKTHER, J