

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.141 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.541 of 2019 from the file of Additional Family Court, City Civil Court, Hyderabad, and transfer the same to the Court of Senior Civil Judge, Jangaon, for trial and disposal, in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. In spite of service of notice on the respondent/husband and despite listing this matter under the caption "For Orders", there is no representation for the respondent/husband.

3. Initially, the petitioner/wife sought transfer of the subject O.P.No.541 of 2019 to the Court of Additional District Judge, Jangaon. Subsequently, she filed I.A.No.2 of 2019 seeking amendment of the prayer, i.e., to transfer the subject O.P.No.541 of 2019 to the Court of Senior Civil Judge, Jangaon, instead of Additional District Judge, Jangaon. The said application was allowed by this Court, vide order, dated 27.01.2020.

4. The learned counsel for the petitioner/wife would submit that marriage between the petitioner/wife and the respondent/husband took place on 01.07.2010 at Thumkunta,

Shameerpet Mandal, Ranga Reddy District. During their wedlock, the couple are blessed with a baby girl by name A.Nishika Reddy. Subsequently, disputes arose between the couple and the petitioner/wife was sent to her parents' house by the respondent/husband. Unable to bear the harassment of the respondent/husband, the petitioner/wife lodged a report with Maddur Police Station, which was registered as Crime No.20 of 2019 for the offences punishable under Sections 323, 506 & 498A of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The petitioner/wife also filed M.C.No.8 of 2019 against the respondent/husband for grant of maintenance, before the Additional Judicial Magistrate of First Class, Jangaon. The respondent/husband filed GWOP No.1 of 2019 before the Principal District Judge, Jangaon, seeking declaration that he is the guardian of the minor child by name A.Nishika Reddy, to grant permanent custody of the child to him and to grant visitation rights, besides filing the subject O.P.No.541 of 2019 before the Additional Family Court, City Civil Court, Hyderabad, under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights. The petitioner/wife is now residing at her parents' house at Bairanpally. The distance between Bairanpally and Hyderabad is around 120 kilometres and it will be difficult for her to travel from Bairanpally to Hyderabad to attend the proceedings in the Court at Hyderabad and ultimately prayed to withdraw O.P.No.541 of 2019 from the Additional Family

Court, City Civil Court, Hyderabad, and transfer the same to the Court of Senior Civil Judge, Jangaon.

5. The material placed on record reveals that the respondent/husband has filed the subject O.P.No.541 of 2019 on the file of Additional Family Court, City Civil Court, Hyderabad, against the petitioner/wife, under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights and also filed GWOP No.1 of 2019 before the Principal District Judge, Jangaon, seeking declaration that he is the guardian of the minor child by name A.Nishika Reddy, to grant permanent custody of the child to him and to grant visitation rights. The petitioner/wife filed M.C.No.8 of 2019 before the Additional Judicial Magistrate of First Class, Jangaon, besides lodging a report with the Maddur Police Station against the respondent/husband (Crime No.20 of 2019). The petitioner/wife contended that she is now residing at the mercy of her parents at their house at Bairanpally and she has no source of income. The petitioner/wife has got a school going daughter by name A.Nishika Reddy, who is seven years old. The petitioner/wife has to travel around 120 kilometres from Bairanpally to Hyderabad, along with her daughter 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 is of paramount importance. The petitioner/wife is residing at Bairanpally, and certainly, her attendance before the Additional Family Court, City Civil Court, Hyderabad, causes inconvenience to her. Though small inconvenience may be caused to the respondent/husband in attending the Court at Jangaon, 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.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed and O.P.No.541 of 2019 is withdrawn from the file of Additional Family Court, City Civil Court, Hyderabad, and transferred to the Court of Senior Civil Judge, Jangaon, 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.

12<sup>th</sup> February, 2020  
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Dr. SHAMEEM AKTHER, J