

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.188 OF 2019

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908, is filed by the petitioner/wife seeking to transfer O.P.No.81 of 2019 from the file of Principal Senior Civil Judge, Mancherial, to the file of Judge, Family Court, Secunderabad, for trial and disposal in accordance with law.

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

3. No representation for the respondent/husband.

4. Admittedly, O.P.No.81 of 2019 pending on the file of Principal Senior Civil Judge, Mancherial, is filed by the respondent/husband, under Section 9 of the Hindu Marriage Act, 1955 (for short, 'the Act'), seeking restitution of conjugal rights.

5. In the affidavit filed in support of this Transfer Civil Miscellaneous Petition, it is stated that the petitioner/wife is residing at her parents' house situated at Ganesh Nagar Colony, Suchitra, Jeedimetla Village, Ranga Reddy District, Secunderabad, along with her minor son, who is aged about eight months, and is depending upon them. Therefore, it is very difficult for her to travel along with her minor son to Mancherial, where the subject O.P. is pending. It is further stated that the marriage between the petitioner/wife and the respondent/husband took place on 03.02.2017 at Sarojini Gardens, Kompally, Suchitra, Secunderabad. After marriage, both of them lived together at her

parent's house till 10.08.2018. Thereafter, the respondent/husband shifted his residence to Hyderabad and therefore, no part of cause of action arose at Mancherial. It is further stated that the Family Court at Secunderabad is eight Kilometres away from her parents' house and, therefore, prayed to transfer O.P.No.81 of 2019 from the file of Principal Senior Civil Judge, Mancherial, to the file of Judge, Family Court, Secunderabad.

6. The material placed on record reveals that respondent/husband has filed O.P.No.81 of 2019 on the file of Principal Senior Civil Judge, Mancherial, under Section 9 of the Act, seeking restitution of conjugal rights. The petitioner/wife, along with her minor son, is residing at her parents' house situated at Secunderabad. Under these circumstances, it is relevant to state that Section 19 of the Act 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 Secunderabad. Certainly, her attendance before the Court at Mancherial causes inconvenience to her. She has to travel around 300 kilometres along with her minor son. Further, it is stated that the respondent/husband is residing at Hyderabad. Therefore, no inconvenience would be caused to the respondent/husband in attending the Court at Secunderabad. 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 entered appearance, has not represented the matter resisting the petition.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and O.P.No.81 of 2019 is withdrawn from the file of Principal Senior Civil Judge, Mancherial, and transferred to the file of Judge, Family Court, Secunderabad, for trial and disposal in accordance with law.

Miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

January 23, 2020.
MD

Dr. SHAMEEM AKTHER, J