

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.202 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 F.C.O.P.No.285 of 2019 from the file of Judge, Family Court, Warangal District, to the file of Additional District Judge, Mancherial District, for trial and disposal in accordance with law.

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

3. No representation for the respondent/husband.

4. Learned counsel for the petitioner/wife would submit that the respondent/husband filed F.C.O.P.No.285 of 2019 on the file of Judge, Family Court, Warangal District, under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights, and the same is pending. The petitioner/wife is residing with her parents at Gudem Village, Dandepally Mandal, Mancherial District. The distance between Warangal and the place of residence of petitioner/wife is 200 Kilometres. The petitioner/wife has no financial capacity to attend the Court at Warangal in connection with the subject F.C.O.P. Further, the petitioner/wife is apprehending danger to her life at Warangal. Therefore, it is very difficult for her to travel to Warangal, where the subject F.C.O.P. is pending and ultimately, prayed to transfer F.C.O.P.No.285 of 2019

from the file of Judge, Family Court, Warangal, to the file of Additional District Judge, Mancherial District.

5. 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, 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 adverting 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.”

6. In the instant case, the grounds putforth by the petitioner/wife for transfer of the case filed by the respondent/husband are that she has no financial capacity, she is

¹ 2018 (4) ALD 162

apprehending danger to her life in the hands of the respondent/husband and that it is inconvenient for her to travel from her place of residence to Warangal to attend the proceedings in the Court at Warangal. 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 Warangal cannot be a ground to grant the relief sought by her in this petition. There are no other justifiable grounds in this petition. Under these circumstances, this Court is of the view that the grounds raised by the petitioner/wife do not justify the relief sought by the petitioner/wife in this petition. The Transfer Civil Miscellaneous Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. However, the respondent/husband is directed to provide travelling expenses to the petitioner/wife whenever she

attends the Court at Warangal in connection with the subject
F.C.O.P. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

Dr. SHAMEEM AKTHER, J

February 03, 2020.
MD

