

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

TRANSFER C.M.P.No.256 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 FCOP No.347 of 2016 from the Family Court, Warangal, and transfer the same to the Family Court, Ranga Reddy District at L.B.Nagar, for trial and disposal along with M.C.No.223 of 2019, in accordance with law.

2. Heard learned counsel for both the sides and perused the record.

3. It has been contended on behalf of the petitioner/wife that the petitioner/wife has no parents. She is presently residing with her cousin at Ranga Reddy District. She has filed M.C.No.223 of 2019 before the Family Court, Ranga Reddy District at L.B.Nagar, seeking maintenance from the respondent/husband. She has no financial support to pursue the subject FCOP No.347 of 2016 filed by the respondent/husband before the Family Court, Warangal. The Family Court, Ranga Reddy District at L.B.Nagar, is convenient to the petitioner/wife, since the maintenance case in M.C.No.223 of 2019 filed by her is also pending before the said Court. It will be difficult for the petitioner/wife to travel from Ranga Reddy District

to Warangal, which is about 150 kilometres, to attend the proceedings in the Court at Warangal and ultimately prayed to withdraw FCOP No.347 of 2016 from the Family Court, Warangal, and transfer the same to the Family Court, Ranga Reddy District at L.B.Nagar, for trial and disposal along with M.C.No.223 of 2019, in accordance with law.

4. On the other hand, the learned counsel for the respondent/husband would submit that repeatedly, the petitioner/wife was set *ex parte* in the subject FCOP No.347 of 2016 on the file of the Family Court, Warangal. She has not diligently pursued the said FCOP. There are no justifiable reasons to grant the relief claimed by the petitioner/wife in this Transfer Civil Miscellaneous Petition and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition.

5. There is no dispute with regard to the petitioner/wife staying with her cousin, within the territorial jurisdiction of the Family Court, Ranga Reddy District at L.B.Nagar. Admittedly, the petitioner/wife has no parents. In the course of submissions, it is brought to the notice of this Court that the respondent/husband is working at Bangalore. Anyhow, he has to pass through Hyderabad (Ranga Reddy District) to go to Warangal to pursue the subject FCOP No.347 of 2016 filed by him. 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 has to travel from Ranga Reddy District to the Court at Warangal to attend the proceedings in subject FCOP No.347 of 2016, which certainly causes inconvenience to her. No prejudice or hardship would be caused to the respondent/husband, if the subject FCOP No.347 of 2016 is transferred to the Family Court, Ranga Reddy District, L.B.Nagar, since he is staying at Bangalore and has to pass through Hyderabad (Ranga Reddy District) to go to Warangal. The issues that are required to be determined in M.C.No.223 of 2019 filed by the petitioner/wife before the Family Court, Ranga Reddy District at L.B.Nagar, have relevance to the issues that are required to be determined in the subject FCOP No.347 of 2016 filed by the respondent/husband before the Family Court, Warangal. There is also enabling provision under Section 24 of the Hindu Marriage Act, 1955, to grant interim maintenance during the pendency of the subject FCOP No.347 of 2016. To avoid multiplicity of proceedings and conflicting decisions and to save the valuable time of the Court and minimising the financial expenses of both the

parties, it is appropriate to grant the relief claimed by the petitioner/wife in this transfer petition.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed and FCOP No.347 of 2016 is withdrawn from the Family Court, Warangal, and transferred to the Family Court, Ranga Reddy District at L.B.Nagar, for trial and disposal along with M.C.No.223 of 2019, in accordance with law.

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

10th February, 2020
Bvv

Dr. SHAMEEM AKTHER, J

