

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.253 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 H.M.O.P.No.101 of 2019 from the file of the Court of Senior Civil Judge, Sathupally, and transfer the same to the Family Court-cum-III Additional District Judge at Warangal, 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 petitioner/wife has no sufficient financial capability to attend the proceedings in the Court at Sathupally. A criminal case is registered for the offence punishable under Section 498A of IPC against the respondent/husband vide Crime No.118 of 2019 of City Women Police Station, Warangal City, and the same is pending before the Court of V Additional Judicial Magistrate of First Class, Warangal. The distance between Warangal and Sathupally is around 200 kilometres. It will be difficult for her to travel around 200 kilometres from Warangal to Sathupally to attend the Court at Sathupally and ultimately prayed to withdraw H.M.O.P.No.101 of 2019 pending on the file of the Court of Senior Civil Judge, Sathupally, and transfer the same to the Family Court-cum-III Additional District Judge, Warangal, which is convenient to her.

4. On the other hand, the learned counsel for the respondent/husband would contend that there are no sufficient grounds to grant the relief sought by the petitioner/wife. The petitioner/wife left the company of the respondent/husband on her own. In fact, the petitioner/wife harassed the respondent/husband mentally and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition. In support of his contentions, the learned counsel had relied on a 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 Babu*¹.

5. In view of the submissions made by both the sides, the point that arises for determination in this appeal is as follows:

“Whether H.M.O.P.No.101 of 2019 pending on the file of the Court of Senior Civil Judge, Sathupally, be withdraw and transferred to the Family Court-cum-III Additional District Judge at Warangal?”

6. In *Chejerla Srilakshmi’s case supra*, 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

¹ 2018 (4) ALD 162

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 putforth by the petitioner/wife for the transfer of the case filed by the respondent/husband is that she has no financial support and that it is inconvenient for her to travel from Warangal to Sathupally to attend the proceedings in the Court at Sathupally. 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. In the instant case, as far as the contention of lacking of financial support to the petitioner/wife is concerned, this aspect can be taken care by the Court where the matrimonial dispute is pending. 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, this Court is of the view that no much hardship would be caused to the petitioner/wife and the circumstances of the case do not justify the relief sought by the petitioner/wife in this petition. Under these circumstances, this 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.

23rd January, 2020
Bvv

Dr. SHAMEEM AKTHER, J

