

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.263 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.1248 of 2019 from the file of Judge, Family Court, City Civil Court, Hyderabad, to the file of Judge, Family Court, City Civil Court, Secunderabad, for trial and disposal along with F.C.O.P.No.396 of 2019, in accordance with law.

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

3. Though notice is served on the respondent/husband, none appeared on behalf of him.

4. Admittedly, F.C.O.P.No.1248 of 2019 pending on the file of Judge, Family Court, City Civil Court, Hyderabad, is filed by the respondent/husband, under Section 9 of the Hindu Marriage Act, 1955 (for short, 'the Act'), seeking restitution of conjugal rights, whereas F.C.O.P.No.396 of 2019 pending on the file of Judge, Family Court, City Civil Court, Secunderabad, is filed by the petitioner/wife, under Sections 13 (1) (ia) and 27 of the Act, seeking divorce.

5. In the affidavit filed in support of this Transfer Civil Miscellaneous Petition, it is stated that the subject matter involved in both the F.C.O.Ps. is one and the same and therefore, in order to avoid multiplicity of proceedings and conflict of decisions, both the F.C.O.Ps. are required to be tried by the same Court.

6. Admittedly, in both the O.Ps, parties are same. The contentions raised by both sides appear to be similar. To avoid multiplicity of litigation and conflicting decisions, in the interest of justice both the O.Ps are required to be tried by one Court. F.C.O.P.No.396 of 2019 filed by the petitioner/wife is pending on the file of the Judge, Family Court, City Civil Court, Secunderabad, whereas the F.C.O.P.No.1248 of 2019 filed by the respondent/husband is pending on the file of Judge, Family Court, City Civil Court, Hyderabad. In the given circumstances, it is appropriate for the petitioner/wife to prosecute both the cases at Secunderabad Court. The convenience of the wife is of paramount importance. Therefore, if F.C.O.P.No.1248 of 2019 is withdrawn from the file of Judge, Family Court, City Civil Court, Hyderabad, and transferred to the file of Judge, Family Court, City Civil Court, Secunderabad, no inconvenience would be caused to the respondent/husband. Therefore, the prayer sought by the petitioner/wife can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.1248 of 2019 is withdrawn from the file of Judge, Family Court, City Civil Court, Hyderabad, and transferred to the file of Judge, Family Court, City Civil Court, Secunderabad, for trial and disposal, in accordance with law, along with F.C.O.P.No.396 of 2019. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

January 10, 2020.
MD