

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.259 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.56 of 2019 from the file of Senior Civil Judge, Vikarabad, Ranga Reddy District, to the file of Judge, Family Court – cum – Senior Civil Judge, Zaheerabad, for trial and disposal, in accordance with law, along with O.P.No.27 of 2019.

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 his behalf.

4. Learned counsel for the petitioner/wife would submit that on 07.06.2019, the petitioner/wife filed O.P.No.27 of 2019 on the file of Judge, Family Court – cum – Senior Civil Judge, Zaheerabad, under Section 13 (1) (ia) of the Hindu Marriage Act, 1955 (for short, 'the Act'), seeking divorce, and the same is pending. Thereafter, the respondent/husband filed O.P.No.56 of 2019 on the file of Senior Civil Judge, Vikarabad, Ranga Reddy District, under Section 9 of the Act, seeking restitution of conjugal rights, and the same is also pending. The petitioner/wife is residing at her parents' house at Zaheerabad along with her minor children. She is presently an unemployee and is completely dependant on her parents. In order to avoid multiplicity of proceedings and conflict of decisions, both the O.Ps. are required to be tried by the same Court. Further, the respondent/husband is appearing before the

Court at Zaheerabad in connection with O.P.No.27 of 2019 and therefore, no prejudice would be caused to the respondent/husband, if O.P.No.56 of 2019 is transferred to the Court at Zaheerabad and ultimately, prayed to allow the Transfer Civil Miscellaneous Petition, as prayed for.

5. Admittedly, in both the O.Ps., parties are same. The contentions raised by both sides appear to be similar. Similar issues are required to be dealt in both the O.Ps. Under these circumstances, in order to avoid multiplicity of litigation and conflicting decisions, and for proper appreciation of the facts and circumstances of the case and to arrive at a correct conclusion, in the interest of justice, both the O.Ps. are required to be tried by one Court. O.P.No.27 of 2019 filed by the petitioner/wife is pending on the file of Judge, Family Court-cum-Senior Civil Judge, Zaheerabad, whereas O.P.No.56 of 2019 filed by the respondent/husband is pending on the file of Senior Civil Judge, Vikarabad. In the given circumstances, it is appropriate for the petitioner/wife to prosecute both the cases at Zaheerabad Court. The convenience of the wife is of paramount importance. Further, the respondent/husband is attending the Court at Zaheerabad in connection with O.P.No.27 of 2019. Therefore, if O.P.No.56 of 2019 is withdrawn from the file of Senior Civil Judge, Vikarabad, and transferred to the file of Judge, Family Court – cum – Senior Civil Judge, Zaheerabad, no inconvenience would be caused to the respondent/husband. Therefore, the prayer sought by the petitioner/wife can be granted.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and O.P.No.56 of 2019 is withdrawn from the file of Senior Civil Judge, Vikarabad, Ranga Reddy District, and transferred to the file of Judge, Family Court – cum – Senior Civil Judge, Zaheerabad, for trial and disposal, in accordance with law, along with O.P.No.27 of 2019.

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

January 29, 2020.
MD

Dr. SHAMEEM AKTHER, J

