

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.265 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 H.M.O.P.No.37 of 2019 from the file of Senior Civil Judge, Mahabubabad, to the file of Senior Civil Judge, Huzurabad, for trial and disposal, in accordance with law.

2. Heard the learned counsel for 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 the respondent/husband filed H.M.O.P.No.37 of 2019 on the file of Senior Civil Judge, Mahabubabad, under Section 13 (1) (ia) of the Hindu Marriage Act, 1955 (for short, 'the Act'), seeking divorce. The petitioner/wife filed D.V.C.No.21 of 2019, under Section 12 of Protection of Women from Domestic Violence Act, 2005, on the file of II Additional Judicial Magistrate of First Class, Huzurabad, seeking protection and other reliefs. The petitioner/wife is residing at her parents' house at Jammikunta along with her minor children, who are aged about 10 years and 04 years. She is dependant on her parents and she has no male assistance and therefore, it is very difficult for her to attend the Court at Mahabubabad, where the subject H.M.O.P. is pending. Further, the respondent/husband is appearing before the Court at Huzurabad in connection with D.V.C.No.21 of 2019 and therefore, no prejudice would be caused

to the respondent/husband, if H.M.O.P.No.37 of 2019 is transferred to the Court at Huzurabad and ultimately, prayed to allow the Transfer Civil Miscellaneous Petition, as prayed for.

5. The material placed on record reveals that the respondent/husband has filed H.M.O.P.No.37 of 2019 on the file of Senior Civil Judge, Mahabubabad, under Section 13 (1) (ia) of the Act, seeking divorce. The petitioner/wife, along with her minor children, is residing at her parents' house situated at Jammikunta. Under these circumstances, it is relevant to state that Section 19 of the Act 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 is residing at Jammikunta. Certainly, her attendance before the Court at Mahabubabad causes inconvenience to her. Further, the minor children are aged about 10 years and 4 years, respectively. The petitioner/wife has to attend the Court at Mahabubabad along with her minor children or leaving them at home. In both the circumstances, it causes hardship and inconvenience to the petitioner/wife. Further, the children of the petitioner/wife are school going and their absence to the school would also cause hindrance to their education. Further, travel from Jammikunta to Mahabubabad is also expensive. The convenience of the wife should be preferred and shall prevail over the inconvenience, if

any, which may be caused to the husband. The submissions made on behalf of the petitioner/wife cannot be brushed aside, particularly, when there is no contest from the other side. Accordingly, this Court finds that sufficient cause is shown by the petitioner/wife for granting the relief claimed by her in this petition, more particularly in the light of the fact that the respondent/husband, having served with notice, has not entered appearance resisting the petition.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.37 of 2019 is withdrawn from the file of Senior Civil Judge, Mahabubabad, and transferred to the file of Senior Civil Judge, Huzurabad, for trial and disposal, in accordance with law.

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

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Dr. SHAMEEM AKTHER, J

February 03, 2020.  
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