

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.267 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.548 of 2018 from the file of Judge, Family Court, City Civil Court, Hyderabad, to the file of Judge, Family Court, Warangal, for trial and disposal in accordance with law.

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

3. Learned counsel for the petitioner/wife would submit that the petitioner/wife is residing at Mogilicherla, Warangal District, and she has no financial capacity to bear the travelling expenses to attend the Court at Hyderabad, where the subject O.P. is pending. Further, the respondent/husband had threatened the petitioner/wife in the Court premises at Hyderabad and ultimately, prayed to withdraw O.P.No.548 of 2018 from the file of Judge, Family Court, City Civil Court, Hyderabad, and transfer the same to the file of Judge, Family Court, Warangal.

4. On the other hand, learned counsel for the respondent/husband would contend that the grounds urged on behalf of the petitioner/wife are unsustainable. The petitioner/wife is residing with her brother at Ameerpet, Hyderabad. The respondent/husband had never threatened the petitioner/wife, as alleged and ultimately, prayed to dismiss the petition.

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

“Whether O.P.No.548 of 2018 pending on the file of Judge, Family Court, City Civil Court, Hyderabad, can be withdrawn and transferred to the file of Judge, Family Court, Warangal?”

6. Here, it is apt to refer to the 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 Babu¹, wherein, 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 advertng 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 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.”

¹ 2018 (4) ALD 162

7. In the instant case, the grounds putforth by the petitioner/wife for transfer of the case filed by the respondent/husband are that she has no financial capacity, she is apprehending danger to her life in the hands of the respondent/husband and that it is inconvenient for her to travel from her place of residence to Hyderabad to attend the proceedings in the Court at Hyderabad. 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. 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 facts and circumstances of the instant case are concerned, admittedly, there is no document to show that the respondent/husband threatened the petitioner/wife in the Court premises, as alleged. Furthermore, the brother of petitioner/wife has got a residence at Ameerpet, Hyderabad. In the subject O.P., notice is served on the petitioner/wife on the address furnished in the subject O.P. i.e., at her brother's residence (Ameerpet, Hyderabad). As far as the financial requirements are concerned, those can be dealt with by the Family Court, where the subject O.P. is pending. Furthermore, in the course of submissions, it is

brought to the notice of this Court that trial has been commenced in the subject O.P. and it is coming up for cross-examination of PW.1 (husband). Under these circumstances, this Court is of the view that the grounds raised by the petitioner/wife do not justify the relief sought by the petitioner/wife in this petition. Therefore, it is not a fit case to allow the petition, as prayed for. The petition is devoid of merit and is liable to be dismissed.

8. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

February 04, 2020.
MD

Dr. SHAMEEM AKTHER, J

