

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Tr.C.M.P.No.282 OF 2019

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 read with 151 of the Code of Civil Procedure, 1908, is filed by the petitioner seeking to transfer F.C.O.P.No.662 of 2018 from the file of Judge, Family Court, City Civil Court, Secunderabad, to the file of Judge, Family Court, City Civil Court, Hyderabad, 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 would submit that there is no marital relationship between the parties to the litigation. By creating false and fake documents, the subject F.C.O.P. was filed by the respondent seeking restitution of conjugal rights. The respondent and his associates are following the petitioner and are threatening her with dire consequences, whenever she is attending the Court at Secunderabad. Therefore, the petitioner shifted her residence for the sake of peace and to protect herself from the alleged illegal acts of the respondent and ultimately, prayed to allow the Transfer Civil Miscellaneous Petition, as prayed for.

4. On the other hand, learned counsel for the respondent would submit that the petitioner has not shifted her residence. None had followed or threatened the petitioner. A false police report was lodged against the respondent. There are no grounds to allow the Transfer Civil Miscellaneous Petition, as prayed for, and ultimately, prayed to dismiss the Transfer Civil Miscellaneous Petition.

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

“Whether F.C.O.P.No.662 of 2018 pending on the file of Judge, Family Court, City Civil Court, Secunderabad, can be withdrawn and transferred to the file of Judge, Family Court, City Civil Court, Hyderabad?”

6. There is serious dispute with regard to the performance of marriage between the parties to the litigation. The relations between the parties to the litigation are strained. In the affidavit filed in support of this Transfer Civil Miscellaneous Petition, the petitioner specifically stated, on oath, that she has shifted her residence from Secunderabad to Hyderabad. She also stated with regard to the harassment made by the respondent, as pointed out by the learned counsel for the petitioner. The safety and security of the petitioner is also a matter of consideration. The petitioner needs protection during adjudication of the matrimonial dispute. The submissions made by the learned counsel for the petitioner and the averments made in the affidavit filed in support of the Transfer Civil Miscellaneous Petition cannot be brushed aside. Under these circumstances, the submissions made on behalf of the respondent are unsustainable. Therefore, the prayer sought by the petitioner can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.662 of 2018 is withdrawn from the file of Judge, Family Court, City Civil Court, Secunderabad, and

transferred to the file of Judge, Family Court, City Civil Court, Hyderabad, for trial and disposal, in accordance with law. It is made clear that the observations made in this order shall not have any bearing over F.C.O.P.No.662 of 2018 in the process of its adjudication.

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

January 29, 2020.
MD

Dr. SHAMEEM AKTHER, J

