

HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

TRANSFER C.M.P.No.127 of 2021

ORDER:

1. The petitioner-wife has filed this transfer petition under Section 24 of the Code of Civil Procedure seeking to withdraw O.P.No.5 of 2021 pending on the file of II Additional District and Sessions Judge at Suryapet and to transfer the same to the Family Court, City Civil Courts, Hyderabad.
2. The petitioner is the legally wedded wife of the respondent. Their marriage was performed at Centenary Baptist Church, Secunderabad as per the Christian rites and it was consummated. Out of the wedlock, she gave birth to two children. The respondent started harassing her and filed divorce O.P. with all false allegations. He neglected the petitioner and her children. She is forced to file a criminal case for the offence under Section 498-A of IPC and a Domestic Violence case. It is very difficult for her to attend on each and every date of hearing by travelling around 300 kilometres to attend the Court at Suryapet.
3. Heard on both sides.
4. The respondent did not choose to file any counter. The learned counsel for respondent seeks to submit that the petitioner has filed an application for rejection of the plaint and she has been regularly attending the Court. There is no reason to transfer the case from

Suryapet to Hyderabad and requested for dismissal of the transfer petition.

5. The petitioner is the legally wedded wife of the respondent and out of their wedlock, she gave birth to two children and they are with her only. It is not the case of the respondent that the petitioner is gainfully employed and able to maintain herself and her minor daughters or that he has been paying maintenance to the petitioner or her minor children. The respondent has not disputed the address of the petitioner at Hyderabad. Even in the divorce O.P.No.5 of 2021 filed by him, the respondent has shown her address as “Ram Nagar, Musheerabad, Hyderabad. It is asserted by the petitioner that on each and every date of hearing, she has to commute for a distance of 300 kilometres to attend the Court at Suryapet and to return back to her residence and she has to take care of her minor children.

6. The Hon’ble Supreme Court in **Rajani Kishor Pardeshi v. Kishor Babulal Pardeshi**¹, while dealing with transfer proceedings of a matrimonial dispute, held that in this type of matters, the convenience of the wife is to be preferred over the convenience of the husband.

7. In such circumstances, having regard to the facts of the case, considering the principles laid by the Hon’ble Supreme Court, I am inclined to accept the request of the petitioner as the convenience of

¹ (2005) 12 SCC 237

wife and minor children has to be given preference over the convenience of the husband.

8. In the result, this Transfer Civil Miscellaneous Petition is allowed and O.P.No.5 of 2021 pending on the file of II Additional District and Sessions Judge at Suryapet is withdrawn and is transferred to the Judge, Family Court, City Civil Courts, Hyderabad for disposal in accordance with law. The learned II Additional District and Sessions Judge, Suryapet shall transmit the entire record duly indexed, within one month from the date of receipt of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

A. VENKATESHWARA REDDY, J

Date: 30th November, 2021

ajr