

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

TRANS. CIVIL MISC.PETITION NO: 194 OF 2021

Between:

1. Savitha Bhati, W/o. Laxminarayana Bhati, Age 28 years, Occ. House Hold,
2. Master Ronak Bhati, S/o.Laxminarayan Bhati, Age 8 years, occ. Student,
3. Master Rishi Bhati, S/o. Laxminarayan Bhati, Age 3 years, Occ. Student.

Petitioner No.2 and 3 are minors Rep. by its their natural guardian i.e. mother i.e. Petitioner No.1

All R/o.H.No.7-154, R.P.Road, Opp.Samsung Smart Plaza, Mancherial District.

...Petitioners

AND

Sri Laxminarayan Bhati, S/o.Sri. Gheesaram Bhati, Age 42 years, occ. Business,
R/o.H.No.15-7-34/1, Flat No.503, Kolsawadi, Begum Bazar, Hyderabad.

...Respondent

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to withdraw the O.P No.188 of 2021 from the file of the Family Court Judge, at Hyderabad and transfer to the file of Senior Civil Judge Court, Mancherial.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings of O.P No.188 of 2021 on the file of the Family Court Judge, at Hyderabad.

For the Petitioners : Sri Kondadi Ajay Kumar, Advocate

For the Respondent : Sri Pramod Singh, Advocate

The Court made the following: ORDER

HONOURABLE SRI JUSTICE N. TUKARAMJI

TRANSFER C.M.P.NO. 194 OF 2021

ORDER:

Heard the learned counsel for the petitioners and the respondent.

2. This petition is filed with a prayer to transfer O.P.No.188 of 2021 on the file of the Judge, Family Court at Hyderabad to the file of the Senior Civil Judge, Mancherial.

3. The petitioners' case is that the first petitioner is the wife of the respondent and during wedlock, they were blessed with two children/petitioners 2 and 3. Subsequently, the respondent habituated to vices, started harassment and finally in February, 2020 necked them out of the matrimonial home. Thereupon, the first petitioner along with children reached her parents at Mancherial. There she lodged police report which is registered as Crime No.10 of 2021 and also filed petition under the protection of women from domestic violence Act, 2005 vide DVC No.52 of 2021 which is pending on the file of the II Additional JMFC, Mancherial. In the mean time, the respondent

filed O.P.No.188 of 2021 seeking restitution of conjugal rights and also for the custody of minor children. The petitioners further submit that the respondent has neglected them and the first petitioner is homemaker, has no income earning occupation and living as dependant on her parents. In the circumstances, attending the Court proceedings at Hyderabad would cause severe physical and financial inconvenience. On the other hand, as the respondent is attending the Court at Mancherial, as such the transfer will not cause any hardship to him. Hence, prayed for transfer of the petition.

4. The respondent opposed the petition and in counter contested that the first petitioner left him on her own on the pretext of attending her relative's marriage. Thereupon, he got issued a legal notice on 29.12.2020 requesting her to join matrimonial home. In turn the first petitioner got registered criminal case against him with the Women Police Station, Srirampur, Ramagundam with false averments. Thereafter, the matter was settled between them and the criminal complaint was also quashed by this Court and the first petitioner joined him along with children at Hyderabad. However, again she left

his company and got filed the petition under the Protection of Women from Domestic Violence Act, 2005. Thus, the material averments made by the petitioners are incorrect and the first petitioner has no interest in marital life. The present petition is filed only to settle the matters as per her terms. Thus, prayed for dismissal of the petition.

5. Perused the material on record. The marital relationship and separate living of the first petitioner with her children at Mancheri are not in dispute. Further the claims of the first petitioner that she has no income earning avenue and living as dependant on her parents, are remained uncontroverted. The petitioners' plea in commuting the distance to attend the court would cause severe inconvenience, is found reasonable. On the other hand, the respondent is bound to visit the Courts at Mancheri to pursue the petitions filed by the first petitioner.

6. Having regard to these aspects and the settled proposition of law that in matrimonial matters, the convenience of the wife is relevant factor to consider and in comparison, as the inconvenience that may be caused to the petitioner would be greater than that of respondent, this Court is of the opinion that

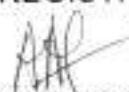
transferring the petition filed by the respondent to the place desired by the petitioner would be proper.

7. In the result, the transfer C.M.P. is allowed. O.P.No.188 of 2021 on the file of the Judge, Family Court at Hyderabad is withdrawn and transferred to the file of the Senior Civil Judge, Mancherial for adjudication as per law. No costs.

As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

//TRUE COPY//

SD/-K.AMMAJI
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Family Court Judge, at Hyderabad
2. The Senior Civil Judge Court, Mancherial
3. One CC to Sri Kondadi Ajay Kumar, Advocate [OPUC]
4. One CC to Sri Pramod Singh, Advocate [OPUC]
5. Two CD Copies
6. One Spare Copy

KNK
gbr



HIGH COURT

DATED: 28/02/2022

ORDER

TR.CMP.No.194 of 2021



ALLOWING THE TRANSFER C.M.P.
NO COSTS

(7) VLV
19/3/22