

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

TR. C.M.P.NO: 405 OF 2022

Between:

Smt. Nalladi Manasa W/o Vijay Kumar, aged about 32 years, Occ. House
Wife, r/o H.No. 11-226/a, Sarapaka Village, Kothagudam district.

...Petitioner

AND

Nalladi Vijay Kumar S/o Rama Rao, aged 30 years, Occ: Private Employee,
R/o H.No. 2-1-189, Madhava Nagar, Road No.1, Near: KUC at Gopalapuram
Road, Hanmakonda, Warangal City & District.

...Respondent

Petition under Section 24 of the CPC praying that in the circumstances
stated in the affidavit filed therewith, the High Court may be pleased to transfer
F.C.O.P No. 109 of 2020 on the file of the Hon'ble Judge, Family Court,
Warangal District at Warangal before the Family court, at Kothagudam District.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated
in the affidavit filed therewith, the High Court may be pleased to stay all further
proceedings, including appearance of the Petitioner herein, in the F.C.O.P No.
109 of 2020 on the file of the Hon'ble Judge, Family Court, Warangal District at
Warangal as otherwise the Petitioner will suffer grave and irreparable loss and in the
interest of justice.

This Petition coming on for hearing, upon perusing the Petition and the
affidavit filed in support thereof and upon hearing the arguments of M/s T.
DHANALAKSHMI, Advocate for the Petitioner and M/s HARSHEET REDDY LAW
FIRM, Advocate for the Respondent.

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

TR.C.M.P.NO.405 of 2022

ORDER :

This is a petition filed by the petitioner under Section 24 of C.P.C. with a prayer to transfer F.C.O.P.No.109 of 2020 from Family Court, Warangal to Family Court, Kothagudam. The petitioner is wife of respondent herein.

2. The above said F.C.O.P.No.109 of 2020 has been filed by the respondent/husband of the petitioner under Section 13(1)(ia)(ib) Hindu Marriage Act for divorce. The petitioner has filed her own affidavit in support of her petition and submitted that her marriage was performed with the respondent on 24-05-2014 at Badrachalam and at the time of marriage, her parents have presented cash, Gold and Silver ornaments as dowry. The petitioner joined the respondent and both of them lived at Shanti Nagar, Badrachalam. The petitioner claims that within the short time of their marriage, the respondent and his family members subjected her to physical, mental harassment by demanding additional dowry as they need to clear the debts obtained by the respondent. The petitioner claims that the respondent harassed

her and developed illegal intimacy with other women. The petitioner further stated that the respondent apprehending a complaint may be lodged by the petitioner herein, filed a petition for Restitution of Conjugal Rights under Section 9 of Hindu Marriage Act vide O.P.No.5 of 2016. The petitioner herein filed a complaint before the police, Badrachalam which was registered as Crime No.10 of 2017. She has also filed a petition seeking maintenance vide M.C.No.13 of 2017. The police at Badrachalam having completed investigation, filed a charge sheet against respondent vide C.C.No.324 of 2017. The petitioner has filed counter with all the actual facts and contested O.P.No.5 of 2016, thereby the respondent having withdrawn the earlier petition filed under Section 9 of Hindu Marriage Act, filed another petition seeking divorce which was registered as F.C.O.P.No.109 of 2020. The petitioner claims that the respondent has filed a petition at Warangal, only to harass the petitioner herein. The petitioner is resident of Sarapaka Village, Burgampadu Mandal, Kothagudam. She has no means, she is staying with her elderly parents. She cannot afford the travel from Badrachalam to Warangal, thereby she prayed for transfer of the divorce petition from Warangal to Kothagudem.

3. A notice was directed to the respondent. Even though one Mr.Rakesh Kumar informed the Court that he got instructions and he filed vakalath on behalf of the respondent, subsequently, there was no representation for the respondent. The petition was adjourned from time to time for the reply/counter of the respondent. However, there was no representation on behalf of the respondent.

4. Heard learned counsel for the respondent. The learned counsel having reiterated the averments made in the affidavit filed in support of the petition, he further argued that the petitioner being a lady without any financial help and support cannot travel all the way from Badrachalam to Warangal for defending the divorce case, thereby she sought for transfer of divorce case from Warangal to Kothagudem.

5. Now the point for consideration is :

Whether there are grounds to transfer the petition filed by respondent vide O.P.No.109 of 2020 from Warangal to Kothagudem ?

6. As seen from the record, copy of the petitions filed by the petitioner herein, it seems earlier the respondent herein filed O.P.No.5 of 2016 before Agent to the Government cum District Magistrate at Khammam and sought for restitution of conjugal rights. As per the affidavit filed in support of the petition, the

respondent informed the Court that he is a private employee, resident of Shanti Nagar Colony, Badrachalam. Subsequently, he has not pressed the petition on 25-06-2002 and even in the petition filed before the Agent, the same address of Shanti Nagar Colony has been shown.

7. Whereas, in the subsequent divorce case, the petitioner has shown his address as private employee, resident of Madhava Nagar, Hanamkonda. O.P.No.109 of 2020 was filed by the respondent on 17-02-2020, whereas, the memo before the Agent to Government for not pressing the previous petition for restitution of conjugal rights was filed in June, 2022 and it clearly shows the address of the respondent as resident of Badrachalam. As rightly submitted by the learned counsel for the petitioner, a petition for divorce can be filed by either of the parties, at place where their marriage took place, or at the place where they last resided. According to the averments made by the petitioner, she joined the respondent and they both lived at Badrachalam. It is not the case of respondent in his divorce petition, they both resided within the limits of Warangal. Therefore, the respondent nowhere explained as to how he can maintain divorce petition before the Family Court at Warangal. Even otherwise, in view of

the Judgments of the Hon'ble Apex Court, the interest of the wife shall be treated as paramount in all matrimonial matters. The petitioner is a lady without any financial support and may not be in a position to travel from Badrachalam to Warangal for the purpose of defending the divorce case filed by the respondent without showing any ground as to how he can maintain such a petition at Warangal. Therefore, the request of the petitioner for transfer of divorce petition filed by the respondent can be considered.

8. In the result, petition is allowed. The O.P.No.109 of 2020 is transferred from Family Court, Warangal to Family Court, Kothagudam. The learned Family Court Judge, Warangal, is directed to transfer the entire record in O.P.No.109 of 2020 by duly indexing the same within two (2) weeks from the date of receiving the order under due intimation to the respondent.

Consequently, Miscellaneous applications if any, are closed. No costs.

Sd/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Family Court Judge at Warangal
2. The Family Court Judge at Kothagudem
3. One CC to M/s T. DHANALAKSHMI, Advocate (OPUC)
4. One CC to M/s HARSHEET REDDY LAW FIRM, Advocate (OPUC)
5. Two CD Copies

VII

HIGH COURT

SSRN, J

DATED: 19/01/2023

ORDER

TR CMP.No.405 of 2022



Allowing the TR. CMP

[Handwritten signature]
02/02/23