

THE HON'BLE SRI JUSTICE BANDARU SYAMSUNDER

TRANSFER CIVIL MISCELLANEOUS PETITION No.197 OF 2023

ORDER:

I have heard learned counsel for the petitioner, Mr.R.Harish Kumar. None appeared for the respondent though served with notice, though notice sent to him through registered post with acknowledgment due, which he said to be refused.

2. This is wife's petition filed under Section 24 of Code of Civil Procedure (in short "C.P.C"), seeking transfer of H.M.O.P No.26 of 2023 from Senior Civil Judge's Court at Dhone of Kurnool District to Senior Civil Judge's Court, Ananthapuram, on the ground that now she is residing in her parents' house at Ananthapuram along with her minor child who is aged about 2 years and she has no source of income to attend before Senior Civil Judge's Court at Dhone. The petitioner submits that at the instance of respondent she resigned her job, now she is residing at her parents' house along with her minor child, whereas respondent though living by doing business at Hyderabad chosen to file petition seeking for divorce with false grounds at Dhone though no cause of action arose within the jurisdiction of Senior Civil Judge's Court at Dhone. She prays to allow the petition.

3. The respondent has not chosen to contest the case and not filed any counter affidavit denying allegations made against him in the affidavit of the petitioner.

4. Admittedly, the petitioner is now residing in her parents' house along with her two years old child. In similar circumstances the Hon'ble Apex Court **Sangeetha alias Shreya Vs. Prasant Vijay Wargiya** ¹, held that between the husband and wife, the inconvenience of the wife must prevail when the wife has a child aged 2 ½ years old. In the present case also petitioner is living in her parents' house along with her child and two years, due to that certainly it would be difficult for her to attend before the Senior Civil Judge's Court at Dhone. Even otherwise, petitioner said to be lodged a report against the respondent and his family members before the Disha Police Station and she also said to be filed DVC and filed petition under Section 125 Cr.P.C., claiming maintenance from respondent before Family Court at Ananthapuram. There are grounds to consider the request of the petitioner to transfer the HMOP.No.26 of 2023 from Senior Civil Judge's Court, Dhone to Family Court at Ananthapuram where Section 125 Cr.P.C., petition said to be filed by the petitioner is pending.

¹ (2004) 13 SCC 407

5. In the result, petition is allowed. H.M.O.P No.26 of 2023 on the file of Senior Civil Judge Court at Dhone, Kurnool District is hereby withdrawn and transferred to Family Court, Anantapuram. Learned Senior Civil Judge, Dhone shall transmit the case records in H.M.O.P No.26 of 2023 to Family Court, Anantapuram, duly indexed, as expeditiously as possible within a period of two (2) weeks from the date of receipt of orders of this Court in the present petition.

6. Both parties shall appear before Family Court, Anantapuram, on 11.11.2023 at 10.30 AM. No order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed. The interim stay granted if any, shall stand vacated.

JUSTICE BANDARU SYAMSUNDER

Date: 06.10.2023
KGM