

A

SMT. T.GAYATRI DEVI

v.

DR.TALLEPANENI SREEKANTH
(Civil Appeal No. 6721 of 2013)

B

AUGUST 5, 2013

[GYAN SUDHA MISRA AND
PINAKI CHANDRA GHOSE, JJ.]

C *Transfer Petition - Petition of appellant-wife for transfer of divorce proceeding instituted by respondent-husband pending trial in Family Court, Hyderabad to Family Court at Kakinada - Rejected by High Court - Propriety - Held: Not proper - Approach of the High Court and the reasons assigned by it clearly unsustainable - High Court lost sight of the fact*

D *that respondent-husband on the one hand has filed a divorce proceeding against appellant-wife and further expects the same to be tried at a place of his choice, which is Hyderabad - High Court refused to transfer it to the place where the wife is working on the ground that she is not an indigent lady and*

E *is capable of contesting the suit by undertaking journey from Kakinada to Hyderabad - It completely overlooked the implication of this view as on the one hand the appellant-wife would be expected to contest the divorce proceeding to her detriment and at the same time would have to undertake the*

F *journey from Kakinada to Hyderabad which is bound to affect discharge of her professional duties where she is working as apart from the journey she would also have to seek leave which surely would affect her work performance further and put her job at risk - Considering the implication of the aforesaid*

G *situation and circumstance, the view taken by the High Court refusing to transfer the case is fit to be struck down as illegal, devoid of practical fallout and wisdom - Divorce proceeding along with its records permitted to be transferred from the Family Court, Hyderabad to the Family Court, Kakinada.*

H

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6721 of 2013. A

From the Judgment and Order dated 23.07.2012 of the High Court of Judicature A.P. at Hyderabad in Transfer Civil Misc. Petition No. 89 of 2012. B

M. Vijaya Bhaskar for the Appellant.

Aniruddha P. Mayee for the Respondent.

The following order of the Court was delivered C

O R D E R

1. Leave granted.

2. This appeal has been filed challenging the order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad dated 23.07.2012 by which the learned Single Judge was pleased to reject the petition filed by the appellant for transfer of a divorce proceeding instituted by the respondent-husband bearing O.P. No. 1256/2011 which is pending trial in the Family Court, Hyderabad to the Family Court at Kakinada. D E

3. The High Court appears to have rejected the petition essentially on the ground that the appellant-wife is not a student depending upon her parents and is stated to be employed in a private sector as Company Secretary and, therefore, the High Court held that it was not a case of a destitute woman depending on the charity of her parents and taking shelter in her parental house so as to allow the transfer of the divorce proceeding on the ground that she could not afford the expenditure of travel and accommodation at Hyderabad. F G

4. We find the approach of the High Court and the reasons assigned clearly unsustainable as the High Court appears to have lost sight of the fact that the respondent-husband on the H

A one hand has filed a divorce proceeding against the appellant-wife and further expects the same to be tried at a place of his choice, which is Hyderabad. The High Court refused to transfer it to the place where the wife is working on the ground that the petitioner-wife is not an indigent lady and she is capable of

B contesting the suit by undertaking journey from Kakinada to Hyderabad. The learned Single Judge has completely overlooked the implication of this view as on the one hand the appellant-wife would be expected to contest the divorce proceeding to her detriment and at the same time would have

C to undertake the journey from Kakinada to Hyderabad which is bound to affect discharge of her professional duties where she is working as apart from the journey she would also have to seek leave which surely would affect her performance in the company further and put her job at risk. The import of the order

D clearly is that on the one hand the appellant-wife should live alone, maintain herself by living at her parents place and on the top of it give more attention to contest the divorce proceeding rather than looking to her job on which she is surviving in absence of any support from her husband who not only seeks a decree of divorce but also at convenience by choosing a place

E of his choice to secure a decree of divorce.

5. Considering the implication of the aforesaid situation and circumstance, the view taken by the High Court refusing to transfer the case is fit to be struck down as illegal, devoid of

F practical fallout and wisdom.

6. We, therefore, set aside the order passed by the High Court, allow this appeal and permit the transfer of the divorce proceeding along with its records bearing O.P. No. 1256 of

G 2011 from the Family Court, Hyderabad to the Family Court, Kakinada.

B.B.B.

Appeal allowed.