

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition Nos.329 and 597 of 2016

ORDER:

These two petitions are filed by the wife under Section 24 of the Code of Civil Procedure, 1908.

Tr.CMP.No.329 of 2016 is filed requesting to withdraw OP.No.967 of 2016 on the file of the II Additional Family Court, Ranga Reddy District at Miyapur and transfer the same to the Family Court at Kurnool.

Tr.CMP.No.597 of 2016 is filed requesting to withdraw HMOP.No.649 of 2016 pending on the file of the aforementioned Court at Miyapur and transfer the same to the Family Court at Kurnool.

Heard Sri J. Janaki Rami Reddy, learned counsel for the petitioner-wife, and Sri V. Dattatreya Gouda, learned counsel for the respondent-husband. I have perused the material record.

The case of the wife is that she is a house wife and that both the parties originally belong to Kurnool and that Kurnool is their native place and that she is unemployed and is presently having custody of two children, aged 11 and 9 years, and that she has no financial capacity and that she is not in a position to undertake travel from Kurnool to Hyderabad to attend the above said two Court cases at Hyderabad and that therefore she is obliged to file these transfer petitions seeking transfer of both the cases from the Court at Miyapur to the Family Court at Kurnool.

Sans allegations traded between the parties, the core contention of the husband is that the wife is interested in depriving the husband of his rights to visit the children and that there is a life threat for him at Kurnool.

I have bestowed my attention to the facts and the submissions.

In the light of the aforementioned contentions and the totality of the circumstances of the case, it is clear that the inconvenience caused to the wife outweighs the inconvenience if any that would be caused to the husband. Further, in the decision in *Sangeeta @ Shreya V/s Prasant Vijay Wargiya*¹, when the husband claimed that he has no income and that he apprehends threats to life and liberty if he is made to go Kota, Rajasthan, the place of residence of his wife, the Supreme Court observed that we are still living in a civilized society and hence there is no substance in the submission of the husband that there would be danger to his life if he has to attend the Court at Kota and further held that if any threat is given, the husband can always complain to that Court and that such complaint, if any, will be considered by that Court on its merit and accordingly allowed the wife's petition for transfer of the case filed by the husband pending before the Court at Gwalior, M.P., to the Family Court at Kota, Rajasthan. Between the husband and wife, the convenience of the wife must prevail more particularly when the wife has school going children in her custody. The ratio in the decision squarely applies to the facts of the present case.

Having considered the facts, this Court is of the opinion that sufficient grounds are made out on facts and in law to accept the plea of the wife for transfer of both the cases as prayed for in both the petitions.

In the result, the petitions are allowed. Accordingly, OP.No.967 of 2016 and HMOP.No.649 of 2016 on the file of the II Additional Family Court, Ranga Reddy District at Miyapur are withdrawn from the file of the said Court and are transferred to the file of the Family Court at Kurnool, for trial and disposal in accordance with the procedure established by law.

In view of the fact that the learned counsel for the husband states that the transfer of the cases may delay the disposal of the request made by the

¹ (2004) 13 SCC 407

husband for visitation rights, the transferor Court is directed to expeditiously transmit the record to the transferee Court.

Learned counsel for the husband would also submit that the husband is a private employee and that he would not be in a position to attend the Court cases at Kurnool on every date of adjournment in case.

Having regard to the submission, the husband is given liberty to file an appropriate application in the Court at Kurnool, on transfer of the cases, for dispensing with his appearance on every date of adjournment. It is made clear that if any such application comes to be filed, the trial Court shall consider the same after giving an opportunity to the respondent-wife.

Miscellaneous petitions, pending if any, in these petitions shall stand closed. No order as to costs.

03.11.2016
Vjl



M. SEETHARAMA MURTI, J