

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.380 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 CPC, is filed for withdrawal of O.P.No.261 of 2017 pending on the file of the Judge, Additional Family Court, Hyderabad, to the file of Family Court, Warangal, on the ground that the respondent while working at Hyderabad filed petition for grant of divorce under Section 13(1)(Ia) of the Hindu Marriage Act on various grounds, whereas the petitioner is staying at Warangal with one year old child and thereby, it is difficult for her to attend the Court on the date of every adjournment before the Court at Hyderabad and she has no means to maintain herself.

2. The grounds urged by the petitioner are no more available for withdrawal and transfer of the cases from one Court to another Court, in view of the judgment in Krishna Veni Nagam v. Harish Nagam¹, wherein the Apex Court at para No.18 held as follows:

“18. We, therefore, direct that in matrimonial or custody matters or in proceedings between parties to a marriage or arising out of disputes between parties to a marriage, wherever the Defendants/Respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of Defendnats/Respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be:

- i) Availability of video conferencing facility.
- ii) Availability of legal aid service.
- iii) Deposit of cost for travel, lodging and boarding in terms of Order XXV Code of Civil Procedure.

¹ AIR 2017 SC 1345

- iv) E-Mail address/phone number, if any, at which litigant from out station may communicate.”

As per the guidelines laid down by the Apex Court, petitioner can be examined by video conferencing while staying at Warangal. In case no video conferencing facility is available, the husband shall be insisted to deposit costs of travelling, lodging and boarding in terms of the order XXV CPC while directing the wife to furnish e-mail address/phone number, if any, at which the litigant from out station.

3. In view of the above, the Judge, Additional Family Court at Hyderabad, is requested not to insist for presence of the petitioner on every date of adjournment except on the date when the presence of the petitioner is required for cross-examination by the respondent's counsel or for any other purpose, as long as the counsel representing her, prosecuting the case before the Court. However, this direction shall not preclude the Court from passing any order, in accordance with law, in the event the counsel failed to represent or prosecute the proceedings on her behalf. The Judge, Additional Family Court, is bound to adhere to the guidelines issued by the Apex Court in the case referred supra.

4. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of at the admission stage.

Miscellaneous Petitions, if any, pending in this petition shall stand closed. There shall be no order as to costs.

M.SATYANARAYANA MURTHY,J

Date:20.06.2017
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