

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CIVIL MISCELLANEOUS PETITION No.446 OF 2017

ORDER:

This transfer civil miscellaneous petition, under Section 24 of the Code of Civil Procedure, 1908 (for short 'CPC'), is filed to withdraw D.O.P. No.464 of 2017 pending on the file of Principal District Judge, Guntur, and transfer the same to the Judge, Family Court, Vijayawada, on two grounds.

The first ground is that she lodged a complaint with the police station A.S.Nagar, Police Station, and it is pending for investigation and that she also filed domestic violence case which is pending for counselling, and the other ground is that she has to take care of her children aged about six years and one and half year, therefore, it is difficult for her to undertake journey covering distance of 35 kilometres on every date of adjournment and hence requested to transfer the matter.

The first ground is pendency of two cases viz., criminal complaint and domestic violence case, the investigation in the criminal complaint is not completed and similarly domestic violence case is at the stage of counselling as admitted by the petitioner. But they have to be tried independently by the competent Magistrate and not by the Principal District Judge. Therefore, pendency of two matters at preliminary stage is not a ground. The other ground is that it is difficult for her to undertake journey covering distance of 35 kilometres from Vijayawada to Guntur, where D.O.P. No.464 of 2017 is pending. In fact, the petition under the Divorce Act shall be tried by the Principal District Judge. If the D.O.P. is withdrawn and transferred to the Principal District Judge at Machilipatnam, which is

at distance of 71 kilometers from Vijayawada, it would not serve any purpose on the other hand it would frustrate the very purpose of withdrawal. However, the Principal District Judge, Guntur, is requested not to insist the presence of the petitioner on every date of adjournment, except on the dates when her cross-examination is required to be recorded by the court itself or for any other specific purpose, as long as she is being represented by her counsel and prosecuting the proceedings.

This direction would not preclude the Principal District Judge, Guntur, to pass any order against the petitioner, in the event the counsel for the petitioner did not represent and prosecute the proceedings on her behalf.

In view of the above discussion, I find no ground to withdraw and transfer D.O.P. No.464 of 2017.

In the result, the transfer civil miscellaneous petition is disposed of with the above direction. No costs.

Miscellaneous petition, if any, pending in the transfer civil miscellaneous petition shall stand closed.

M.SATYANARAYANA MURTHY, J

17.07.2017
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