

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**TRANSFER CIVIL MISCELLANEOUS PETITION No.812 of 2016****ORDER:**

This Transfer Civil Miscellaneous Petition, under Section 24 of CPC, is filed by the respondent/wife in O.P.No.07 of 2015 pending on the file of Senior Civil Judge at Sanga Reddy, filed under Section 13(i) (ib) of Hindu Marriage Act, to withdraw and transfer the same to the Family Court, City Civil Court at Hyderabad, from Senior Civil Judge, Sangareddy, Medak District.

The first and foremost ground raised by the petitioner herein is that she is having children aged about 7 and 4 years and they are school going children and that she being an unemployee unable to bear the expenses to attend the Court on every adjournment by covering a distance of 67 Kms from Hyderabad to Sangareddy.

Admittedly, the children of the petitioner are aged 7 and 4 years and they are school going children. But, it is not a ground for her to undertake journey to attend the Court for completion of evidence by covering the distance of 67 kms from Hyderabad to Sangaraddy and since it is a matter of 1 ½ hours or two hours journey, she can attend the court when her children attend the school and come back with no time. Even otherwise, the petition pending before the Court is civil in nature and her presence on every date of adjournment is not required as long as she is being represented by a counsel and the counsel is prosecuting the proceedings on her behalf. Therefore, her

presence on every date of adjournment, except on the date when her cross examination is to be recorded by the Court if no facility of videography is available, is not required. Therefore, the distance to travel to Sangareddy from Hyderabad to attend the case is not a ground.

In the recent judgment of the Apex Court in *Krishna Veni Nagam v. Harish Nagam*¹, wherein the Apex Court at para No.18 held as follows:

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

Therefore, the above guidelines permit the Court to record evidence of the witness by videography and in case no such facility is available, the Court may insist the respondent/husband to deposit expenses for lodging and boarding, in terms of Order 25 of CPC and thereby, the unemployment or lack of means to undertake journey is not at all a ground.

¹ AIR 2017 SC 1345

No doubt, it is difficult for the petitioner being a lady to undertake journey on every date of adjournment, but her presence on every day of adjournment is not necessary and the learned Senior Civil Judge is requested not to insist her presence on every date of adjournment, except on the dates her presence is required to record cross examination or for any other purpose, subject to deposit of expenses by the respondent/husband for lodging and boarding in terms of Order 25 of CPC, 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 Senior Civil Judge at Sangareedy is bound to adhere to the guidelines issued by the Apex Court in the case referred supra.

With the above direction, this Transfer Civil Miscellaneous Petition is disposed of.

As a sequel to it, miscellaneous petitions, if any pending in this appeal, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 23 .06.2017

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