

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.391 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 read with 151 CPC, is filed to withdraw the F.C.O.P.No.1544 of 2016 pending on the file of the XV Additional District and Sessions Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Judge, Family Court, Kukatpally at Miyapur, Ranga Reddy District, and transfer the same to the file of the Judge, Family Court at Vijayawada, Krishna District, on the ground that the petitioner is a lady staying with her parents at Vijayawada and she is unable to undertake journey to attend the Court at Miyapur on every date of adjournment having no means to maintain herself.

2. Heard the learned counsel for the petitioner at the stage of admission.

3. The main grievance of the petitioner is that she is residing at Vijayawada with her parents, being a lady unable to undertake journey covering a distance of more than 300 KMs without having any means to maintain herself.

4. The petitioner and the respondent lived together within the jurisdiction of Miyapur Court and therefore, the Judge, Family Court at Miyapur, is having territorial jurisdiction over the subject matter. Inability of the petitioner to undertake journey and lack of means to meet the travelling expenses etc., are not the grounds to transfer the matrimonial cases from one Court to the other. The Apex Court

in Krishna Veni Nagam v. Harish Nagam¹, at para No.18 of the judgment, the Apex Court laid down certain guidelines followed by the Courts in all matrimonial disputes. They are as follows:

- “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.”

As per the guidelines laid down by the Apex Court, witnesses can be examined by video conferencing, so that their presence at the place where the proceedings are going on is not necessary and they can avoid the inconvenience, which they complain to appear before the Courts. 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 husband to furnish e-mail address/phone number, if any, at which the litigant is from out station.

5. In view of these guidelines, the difficulty expressed by the petitioner to take care of the old aged parents after her marriage with the respondent, inconvenience to undertake journey, more particularly lack of means, are not at all the grounds to withdraw matrimonial cases pending on the file of one Court and transfer to the other Court. However, the Judge, Family Court at Miyapur, is requested not to insist for presence of the petitioner on every date of adjournment except on the date when her presence is required

¹ AIR 2017 SC 1345

for cross-examination by the respondent's counsel or for any other purpose as long as the petitioner is being represented by her counsel before the Court. 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.

6. 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.

Date:20.06.2017
INL

M.SATYANARAYANA MURTHY,J

