

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.392 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 CPC, is filed by the petitioner, who is wife of the respondent, to withdraw M.O.P.No.140 of 2017 pending on the file of the Principal District Judge, Srikakulam and transfer the same to the file of Additional Judge, Family Court, Secunderabad.

2. The respondent filed divorce petition under Section 10(x) of the Divorce Act, 1896, against the petitioner for dissolution of marriage on various grounds.

3. The only contention before this Court is that no part of cause of action arose within the jurisdiction of District Court at Srikakulam. Though the petitioner raised several other contentions in the petition, confined her contention to lack of territorial jurisdiction to the District Court at Srikakulam, during hearing. But, that is not a ground to withdraw the petition from one Court and transfer the same to the other Court. However, the Principal District Judge, Srikakulam, is directed to decide the issue on territorial jurisdiction and pass appropriate orders.

4. It is also contended that the petitioner lodged a complaint against the respondent for the offence punishable under Section 498-A IPC, which is pending before the Court at Hyderabad. But, pendency of criminal case is also not a ground since the offence punishable under Section 498-A IPC cannot be tried along with the Marriage O.P., under the Divorce Act. Even if she is facing any inconvenience to undertake journey to attend the Court at Srikakulam, her presence is not required on each and every date

of adjournment and she can be examined by video conferencing in the O.P., pending before the Court at Srikakulam. In case no video conferencing facility is available, 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, in view of guidelines issued by the Apex Court in Krishna Veni Nagam v. Harish Nagam¹.

5. The Principal District Judge, Srikakulam, is requested not to insist for presence of the petitioner on every date of adjournment, except on the date when her presence is required 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. The trial Court is bound to adhere to the guidelines issued by the Apex Court in the case referred supra.

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.

M.SATYANARAYANA MURTHY,J

Date:20.06.2017
INL

¹ AIR 2017 SC 1345