

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P.No.370 of 2017

ORDER :

This transfer petition under Section 24 of Code of Civil Procedure, 1908, is filed seeking withdrawal of H.M.O.P.No.2047 of 2016 pending on the file of Additional Family Court-cum-XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur, and transfer the same to the Court of Senior Civil Judge at Nandigama, Krishna District.

2. The petitioner herein is wife and she sought for transfer of H.M.O.P.No.2047 of 2016 on two grounds. The first ground is that no part of cause of jurisdiction arose within the jurisdiction of Ranga Reddy District. The second ground is that it is difficult for her to undertake journey for more than 250 km. on every date of adjournment from Jaggaiahpet, Krishna District to Miyapur, Ranga Reddy District and she has no means to maintain herself.

3. The petitioner contended that she is living with her parents at Jaggaiahpet, being maintained by her parents, thereby, the petitioner seeks withdrawal of H.M.O.P.No.2047 of 2016 from Additional Family Court-cum-XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur, and transfer the same to the Court of Senior Civil Judge at Nandigama, Krishna District.

4. Heard learned counsel for the petitioner at the admission stage.

5. The first and foremost contention of the learned counsel for the petitioner is that the marriage of the petitioner was performed with the respondent on 20.08.2008 at VMC Kalyanamandapam, Kedareshwarapet, Vijayawada, Krishna District, as per Hindu rites and custom and the marriage was consummated. Therefore, the petition shall be presented with the local limits of ordinary original civil jurisdiction, where the wife is taking shelter under her parent's protection. In the present case, the petitioner-wife is residing at Jaggaiahpet at her parents' house. Section 19 of the Hindu Marriage Act was considered by the Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹ and held that the said section permits proceedings to be filed not only at a place where the wife resides, but also at place where marriage is solemnized or the place where the parties last resided together. At the same time, under the law the husband is legally entitled to file proceedings at such places. Territorial jurisdiction of court is statutorily laid down in C.P.C. or other concerned statutes. On the ground of lack of territorial jurisdiction, the transfer petition cannot be allowed.

7. The second ground raised before this Court is that she being a woman unable to undertake journey covering the distance of more than 250 km. from Jaggaiahpet to Ranga Reddy District and that she has no means to maintain herself. But, this is not a ground in view of

¹ AIR 2017 SC 1345

the law declared in **Krishna Veni Nagam** (supra), wherein the Apex Court framed the following guidelines:

“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 defendant/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.”*

8. In view of above guidelines issued by the Apex Court, the Additional Family Court-cum-XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur, is directed to record her evidence by video conferencing, if such facility is not available, the respondent may be directed to deposit travelling, boarding and lodging expenses vide guideline No.2 and on such deposit, the petitioner be directed to appear before the Court, without insisting her appearance on every date of adjournment if the matter is represented

by the counsel engaged by her, otherwise the Court is bound to pass appropriate orders, in accordance with law.

9. Hence, in view of the guidelines issued by the Apex Court, the Additional Family Court-cum-XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur, is directed to follow the guidelines and dispose of the petition, in accordance with law.

10. With the above observation and direction, the transfer C.M.P. is disposed of.

11. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

12th June 2017.

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M. SATYANARAYANA MURTHY, J

