

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.465 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.109 of 2015 pending on the file of Principal Senior Civil Judge, Kothagudem and to transfer the same to the Senior Civil Judge, Repalle, Guntur District on the following grounds:

- (i) that the petitioner being a woman, it is difficult for her to undertake journey from Repalle to Kothagudem, which is more than 240 kilometres, to appear before the Court on all dates of adjournments,
- (ii) that she has no means to meet the travelling expenses,
- (iii) that she has to take care of her two minor children, who are aged 7 and 3 years old and
- (iv) that she is facing life threat in the hands of respondent whenever she attends the Court at Kothagudem.

2. The first and foremost ground raised before this Court is that she is unable to undertake journey covering distance of more than 240 kms from Repalle to Kothagudem to appear before the Court on every date of adjournment. The matter pending before the Principal Senior Civil Judge's Court, Kothagudem is purely civil in nature. Hence, her appearance on every date of adjournment is not required, as long as her counsel is representing her and prosecuting the case on her behalf. At best, her presence is necessary only when her cross-examination is required to be recorded by the Court or for any other reason whenever the Court directed her to appear before the Court. Therefore, except on those

two occasions, she is not required to appear before the Court at Kothagudem. Consequently, the distance is not a ground to withdraw and transfer the petition from Principal Senior Civil Judge's Court, Kothagudem to Senior Civil Judge's Court, Repalle.

3. The second ground urged before this Court is that the petitioner has no means to meet the expenses for travelling, boarding and lodging whenever she attends to Court at Kothagudem. No doubt, the petitioner being a house wife may not be in a position to meet the expenses for travelling covering the distance of more than 240 kilometres, but in such a case, husband can be directed to deposit the expenses for travelling, boarding and lodging in terms of Order XXV of CPC as indicated in **Krishna Veni Nagam v. Harish Nagam**¹. Therefore, it is also not a ground to withdraw and transfer the above said petition.

4. The third ground urged by the petitioner is that she is having two minor children, who are aged 7 and 3 years. The first child is a school going child. Hence, leaving the children at home and undertaking journey is not a ground to withdraw and transfer the said O.P. Apart from that, she can entrust them to her parents with whom she is living during her absence on one or two days. Even if she is facing serious inconvenience, she may apply for appointment of Advocate Commissioner to record her cross-examination subject to the decision with regard to expenses being incurred therefor. Consequently, the third ground is not a sufficient reason to withdraw and transfer the petition.

5. The fourth ground is that she is facing life threat in the hands of respondent whenever she attends the Court at

¹ AIR 2017 SC 1345

Kothagudem. No specific instance is brought to the notice of the Court about facing such life threat and no complaint is made till date complaining that she is facing life threat in the hands of the respondent. In the absence of any reasonable apprehension, it is difficult to accept her contention. However, if really, the petitioner is facing such life threat, she can give a complaint to the police having jurisdiction of the area where she faced life threat or to the presiding officer of the Court before whom the petition is pending and on such complaint, the presiding officer of the Court is requested to provide necessary police protection subject to bearing expenses whenever she attends the Court in connection with the above O.P. Therefore, none of the grounds raised by the petitioner are sufficient to withdraw and transfer the petition.

6. Keeping in view of the difficulties expressed by the petitioner, the Senior Civil Judge, Kothagudem is requested not to insist her appearance on every date of adjournment as long as her counsel representing her and prosecuting her case on her behalf except on the dates when her cross-examination is required to be recorded or any other specific purpose as directed by the Court. This direction does not preclude the Court from passing any order in accordance with law against the petitioner in the event of failure of her counsel to represent and prosecute the case on her behalf.

7. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

JULY 24, 2017

ssp

