

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.396 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw H.M.O.P.No.19 of 2016 pending on the file of Additional Senior Civil Judge, Karimnagar and transfer the same to any other Judge, Family Court at Adilabad.

The petitioner is residing at Adilabad and O.P. is pending at Karimnagar, which is at a distance of 200 km and she is unable to attend the Court on every adjournment. The other ground is that when ever she attends the Court, the respondent and his relatives forcing her to give consent for divorce and on two occasions, she was attacked by the respondent and his relatives, thereby there is any kind of threat to her life. But the affidavit filed along with the petition does not disclose any such details regarding attack and no complaint was lodged against the respondent or against his relatives or even to the Presiding Officer of the Court about the highhandedness of the respondent and his relatives. In the absence of any material, it is difficult to believe the alleged highhandedness of the respondent and his relatives insisting her to give consent for divorce.

The first foremost ground raised by the learned counsel for the petitioner is that she is a unable to undertake journey covering distance of 200 km to attend the Court but such ground is no more available in view of the judgment of the Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹ where 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

¹ AIR 2017 SC 1345

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.”*

In view of above guidelines, inconvenience to undertake journey may not be a ground to withdraw and transfer O.P. from one Court to another and since she can be examined by video conference and distance is not a matter. However, in view of difficulty expressed by the petitioner, the Additional Senior Civil Judge, Karimnagar, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required. This direction would not preclude the Court to pass any order against the petitioner in accordance with law for her failure to get the proceedings prosecuted through her counsel. If no facility of video conference is available, when the petitioner's presence is required, the respondent may be directed to deposit travelling, lodging, boarding and other incidental expenses vide guideline No.2 and furnish other details like address etc. to contact the petitioner vide guideline No.3. On such deposit, the petitioner shall appear before the Court on the date when her presence is required for cross-examination or for any other purpose. This direction would meet the ends of justice to serve the purpose.

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

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

M. SATYANARAYANA MURTHY J

Date: 22.06.2017
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