

HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition No.684 of 2016

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908, is filed by the petitioner/ wife requesting to withdraw O.P.no.1100 of 2016 pending on the file of the Family Court, City Civil Court, Hyderabad, and transfer the same to the Court of the learned Senior Civil Judge, Bhimavaram, West Godavari District.

2. I have heard the submissions of *Sri K.V.L.Narasimha Rao*, learned counsel for the petitioner and of *Ms. M. Madhavi Priya*, learned counsel appearing for the sole respondent. I have perused the material record.

3. Shorn of unnecessary details related to serious matrimonial disputes between the parties, which are the subject matter of main proceedings, viz., O.P.No.1100 of 2016 presently pending on the file of the Family Court, City Civil Court, Hyderabad, the relevant pleadings and contentions of the parties, which require consideration in this Transfer Petition, in brief, are as follows:

4. The case of the petitioner/ wife, in brief, is this: "The petitioner is the wife of the respondent. After disputes and estrangement between the spouses, she lodged a complaint before the I Town Police Station, Bhimavaram. On her report, a case in Crime No.265 of 2016 was registered, on 22.09.2016, against the respondent and others for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The said case is under investigation. In fact, the petitioner is very much interested in joining the respondent and in leading a happy marital life. Notices are exchanged between the parties. Without considering the contentions in the reply notice of this

petitioner, the respondent filed the aforementioned OP on the file of the Family Court, City Civil Court, Hyderabad, for dissolution of the marriage. As per the precedential guidance in the decisions of the Supreme Court, convenience of the woman has to be taken into consideration while considering the request for transfer of matrimonial cases from one Court at one place to another Court at a place, where the wife is residing. Since the respondent/ husband is anyhow required to attend the proceedings in the Calendar case, which will be eventually taken on file by a Court of learned Magistrate of First Class, Bhimavaram, and as the respondent, being a male person, will not have any difficulty in undertaking journey from Hyderabad to Bhimavaram, no prejudice would be caused to him, if the case pending on the file of Family Court, City Civil Court, Hyderabad, is transferred to a Court at Bhimavaram. Further, if all the cases are brought to the file of the Courts at one place, it would be convenient for both the parties and such a course would help the parties in saving money and time. Further, the petitioner is not having any income or source of income and she is presently living with her parents and depending upon her parents. Her parents are also busy with their day-to-day works and works related to their livelihood. The distance between Bhimavaram and Family Court, Hyderabad, is 500 KMs. The petitioner is not having sufficient money to meet travel, lodging and incidental expenses or to engage an advocate to appear on her behalf in the Family Court, at Hyderabad. Unless one person accompanies her, she cannot undertake travel on every date of adjournment and attend the Court proceedings in the Family Court, City Civil Court, Hyderabad.”

5. The respondent/ husband having entered appearance has not filed a counter resisting the application. The respondent is not seriously

opposing the application of the wife. The respondent did not offer to pay travel, lodging and incidental expenses to the wife and a companion, who may accompany her, for attending the Court case in Family Court, City Civil Court, Hyderabad. Though there is video conference facility in the Court Complex, City Civil Court, there is no such facility at Senior Civil Court, at Bhimavaram. Further, though there is video conference facility in the Court Complex, Eluru, the District Head Quarters, the distance between Bhimavaram and Eluru is about 50 Kms according to the submission of both the learned counsel.

6. Having regard to the reasons supra and the facts peculiar to the case including the specific facts that the respondent is not offering to pay the necessary travelling & incidental expenses to the petitioner/ wife and is not resisting the application and is tacitly consenting for transfer of the case, this Court is of the considered view that the relief sought for, if granted, would meet the ends of justice.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.1100 of 2016 pending on the file of the Family Court, City Civil Courts, Hyderabad, is withdrawn and is transferred to the file of the Senior Civil Court, Bhimavaram, West Godavari District, for trial and disposal, in accordance with the procedure established by law. The transferor Court is directed to transmit the duly indexed record to the transferee Court, expeditiously.

Pending miscellaneous petitions, if any, in this transfer civil miscellaneous petition shall stand closed.

06th September, 2017
RAR

M. SEETHARAMA MURTI, J