

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.466 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.8 of 2017 pending on the file of VI Additional District Judge, Godavarikhani and to transfer the same to the Family Court, Warangal on the following grounds:

- (i) that the petitioner being a woman, it is difficult for her for undertaking journey from Warangal to Godavarikhani, which is more than 170 kilometres, to appear before the Court on all dates of adjournments,
- (ii) that she has to take care of her minor child, who is aged 1 ½ year and
- (iii) that she is facing life threat in the hands of respondent whenever she attends the Court at Godavarikhani.

2. The first and foremost ground raised before this Court is that she is unable to undertake journey covering distance of more than 170 kms from Warangal to Godavarikhani to appear before the Court on every date of adjournment. The petition pending before the VI Additional District Judge, Godavarikhani is purely civil in nature. Hence, her presence 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 directs her to appear before the Court. Therefore, except on those two occasions, she is not required to appear before the Court at

Godavarikhani. Consequently, the distance is not a ground to withdraw and transfer the petition.

3. The second ground urged by the petitioner is that she has to take care of minor child, who is aged 1 ½ year. She can entrust the child 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 second ground is not a sufficient reason to withdraw and transfer the petition.

4. The third ground is that she is facing life threat in the hands of respondent whenever she attends the Court at Godavarikhani. 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 over 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.

5. Keeping in view of the difficulties expressed by the petitioner, the VI Additional District Judge, Godavarikhani 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 for 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.

6. 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.

JULY 24, 2017
ssp

M. SATYANARAYANA MURTHY, J

