

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.451 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw M.O.P.No.83 of 2016 on the file of Senior Civil Judge, Adoni, Kurnool District and to transfer the same to the Senior Civil Judge's Court, Proddatur, Y.S.R. District on the following grounds:

- (i) that the petitioner is the resident of Veprala Village, Mailavaram Mandal, Y.S.R. District and it is difficult for her to undertake journey from Veprala Village to Adoni, Kurnool District, which is more than 200 kilometres, to appear before the Court on all dates of adjournments and
- (ii) that the petitioner lodged a complaint in Mailavaram Police Station against the respondent for the offence punishable under Section 498-A IPC and the same is registered as a case in Crime No.44 of 2015, which is pending for adjudication,
- (iii) in M.C.No.12 of 2015 maintenance was awarded to the petitioner, but the respondent is not paying the monthly maintenance to her. Therefore, she has no means to travel along with her two minor children, who are aged about 4 years and 2 years respectively to Adoni.

2. The first and foremost ground raised before this Court is that she is unable to undertake journey covering distance of 200 kms from Veprala Village to Adoni to appear before the Court on every date of adjournment. The matter pending before the Senior Civil Judge's Court, Adoni, Kurnool District 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 directed her to appear before the Court. Therefore, her contention that she is unable to appear before the Court on every date of adjournment is not a ground to withdraw and transfer the petition from Senior Civil Judge's Court, Adoni, Kurnool District to the Senior Civil Judge's Court, Proddatur, Y.S.R. District. At best, she can be examined by video conference. If video conference is not available, she can seek appointment of Advocate Commissioner to record her cross-examination in case she is unable to move from the village for any other reason and if any such application is filed, the Senior Civil Judge is requested to consider the application subject to bearing expenses as decided by the Court.

3. The second ground urged before this Court is that a case in Crime No.44 of 2015 is pending with Mailavaram Police Station for investigation but it is not a ground to withdraw and transfer. Therefore, I find that it is not a fit case to withdraw and transfer on the said ground.

4. The third ground is that she is unable to undertake journey along with two children who are aged four and two years respectively but in view of the discussion in the earlier para, it is not a ground and in those circumstances, I find that it is a fit case to direct Senior Civil Judge, Adoni, not to insist her appearance on every date of adjournment as long as her counsel representing her and prosecuting her case. But this order 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.

5. 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 18, 2017

ssp

