

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.362 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.2136 of 2016 on the file of Judge, Family Court, Kukatpally, Miyapur and transfer the same to the District Judge, Nalgonda on the ground that the petitioner is unable to undertake journey.

2. Heard learned counsel for the petitioner at the stage of admission.

3. The petitioner is wife of the respondent. The respondent herein filed the aforesaid O.P. for divorce. Admittedly, the petitioner filed criminal case under Section 498-A IPC and Section 3 and 4 of Dowry Prohibition Act before Judicial Magistrate of First Class, Alair. She also filed maintenance case and D.V.C. All the three cases are pending before the Courts at Nalgonda.

4. The ground for transfer of aforesaid O.P., is that the petitioner is residing at Yadadri, Bhongir District and it is very difficult for her to attend the Court at Kukatpally, Miyapur in connection with aforesaid O.P. on each and every date of adjournment.

5. No doubt, it is difficult for a woman to undertake journey frequently. But, that by itself is not a ground to withdraw and transfer the case from one Court to another. In view of latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v.**

Harish Nagam¹, where the Hon'ble Apex Court issued certain guidelines to the Judges, which reads thus:

“Spirit behind the orders of this Court in allowing the transfer petitions filed by wives being almost mechanically allowing is that they are not denied justice on account of their inability to participate in proceedings instituted at a different place on account of difficulty either on account of financial or physical hardship. Our Constitutional scheme provides for guaranteeing equal access to justice, power of the State to make special provisions for women and children and duty to uphold the dignity of women. Various steps have been taken in this direction. However, the Apex Court also issued certain directions in para 18 of its judgment, which read thus:

- 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, the distance and inconvenience to undertake journey may not be a ground to withdraw and transfer the case and at best the witness can be examined by video conference. However, in view of difficulty expressed by the petitioner to undertake journey, Judge, Family Court, Kukatpally, Miyapur is directed not to insist the petitioner to appear on every date of adjournment, except on the dates when her presence is required, more particularly when her presence is required for cross-examination. However, this direction will not preclude the trial Court to pass appropriate orders against the petitioner, in

¹ AIR 2017 SC 1345

case her counsel did not represent and prosecute the proceedings on her behalf, in accordance with law. This direction would meet the ends of justice to serve the purpose.

6. Hence, I find that the ground urged by the petitioner is not tenable to withdraw O.P.No.2136 of 2016 on the file of Judge, Family Court, Kukatpally, Miyapur. However, following the guidelines issued by the Hon'ble Apex Court in **Krishna Veni's case** (supra), the respondent is directed to deposit costs of travelling, lodging and boarding expenses and on such deposit, the petitioner shall appear before the Court on the dates when her presence is required for cross-examination or for any other purpose.

7. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

JUNE 09, 2017
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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 09.06.2017

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