

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.332 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.44 of 2014 on the file of the Senior Civil Judge, Chittoor District at Pileru and to transfer the same to any Court within the jurisdiction limits of Ranga Reddy District, on the following grounds:

- (i) M.C.No.178 of 2015 is pending on the file of XV Additional District Judge-cum-Additional Family Court, Cyberabad at Kukatpally and D.V.C.No.54 of 2016 is pending on the file of XIX Metropolitan Magistrate, Cyberabad at Kukatpally, which are filed by the petitioner,
- (ii) she is taking care of her son, who is studying 6th class and whenever she attends the Court at Pileru, his studies will be disturbed.
- (iii) she being a woman, is unable to undertake journey incurring lot of expenditure covering the distance of 530 kilometres from Hyderabad to Pileru.
- (iv) the family members of the respondent during the third week of December, 2015 and again in the second week of February, 2016 and finally during third week of March, 2016 came down to Hyderabad and threatened her with dire consequences and
- (v) that there is a life threat in the hands of respondent whenever she attends the Court at Pileru in connection with the said O.P.

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

3. The first ground for withdrawal and transfer of O.P. is that M.C.No.178 of 2015 and D.V.C.No.54 of 2016 are pending on the

file of XV Additional District Judge-cum-Additional Family Court, Cyberabad at Kukatpally on the file of XIX Metropolitan Magistrate, Cyberabad at Kukatpally respectively, but they cannot be tried along with the said O.P., which is pending on the file of Senior Civil Judge, Chittoor District at Pileru since the issues involved in those two matters are entirely different from the dispute in marriage O.P. Therefore, pendency of two different cases at Kukatpally is not a ground to withdraw and transfer the said O.P. to any Court at Ranga Reddy within its jurisdiction limits.

4. The second ground is that her son is studying 6th standard and his studies will be disturbed whenever she attends the Court. His son is aged more than 10 years as he is studying 6th standard and that apart the child need not accompany her to the Court at Pileru whenever she attends the Court in connection with the above O.P., thereby disturbance to his studies is myth and it is not a ground to withdraw and transfer the matter.

5. The third ground is that she is unable to undertake journey covering the distance of 530 kilometres from Hyderabad to Pileru, where O.P. is pending, by incurring heavy expenditure. No doubt, the petitioner being a lady may experience difficulty in undertaking journey covering the distance of 530 kilometres to attend the Court in connection with the above O.P. on all dates of adjournments. When she engaged a counsel, her presence on all dates of adjournments is not imperative. However, for cross-examination, she has to appear before the Court but that difficulty is also not a ground in view of the guidelines laid down in latest judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam's**

case¹, 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 the above guidelines, the inconvenience for the petitioner to undertake journey may not be a ground to withdraw and transfer O.P.No.44 of 2016 from one Court to another and at best, the witness can be examined by video conference. However, in view of difficulty expressed by the petitioner to undertake journey of 530 kilometres, the Senior Civil Judge, Chittor District at Piler, 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 the petitioner is required to be cross-examined by the counsel for the respondent as long as she is

¹ AIR 2017 SC 1345

represented by counsel, if her counsel fails to appear and represent, the direction would not preclude the trial Court to pass appropriate order in accordance with law, against the petitioner. This direction would meet the ends of justice and serve the purpose.

6. The other ground is that the petitioner is facing life threat in the hands of the respondent but that is not supported by any material. However, if really she is facing such threat, she is permitted to lodge a complaint to the police or to the presiding officer of the Court and on receipt of such complaint regarding life threat, the presiding officer is directed to provide necessary police protection to the petitioner whenever she attends the Court in connection with the above O.P. subject to bearing expenses by the petitioner.

7. However, the Apex Court while dealing with the transfer of matrimonial cases issued certain guidelines directing the Courts to record cross-examination of the women in matrimonial cases by video conference to avoid those circumstances and also directed the respondent to deposit travelling expenses, boarding and lodging expenses whenever wife attends the Court in connection with the petition pending before the Court. If these guidelines are followed and recorded the examination of the wife by video conference, the question of life threat and incurring expenditure, etc., would not come in the way of petitioner to prosecute the proceedings while staying at Hyderabad. If video conference is not available, the respondent is directed to deposit travelling, boarding and lodging expenses of the petitioner and 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.

8. 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

JUNE 14, 2017

ssp

