

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No. 482 OF 2017

ORDER:

This transfer petition is filed under Section 24 of CPC to withdraw OP No.162 of 2016 pending on the file of the Addl. District Judge, Nalgonda at Suryapet and transfer the same to the Judge, Family Court at Vijayawada on the ground that she is working as government employee at Vijayawada and staying with her parents, but this is not a ground to withdraw and transfer the case for the reason that the distance between Suryapet and Vijayawada is only about 120 kms.

2. The first and foremost ground urged before this Court is that she is unable to perform journey covering distance of more than 120 kms. on every date of adjournment before the Additional District Judge, Nalgonda at Suryapet. No doubt, it is difficult task for any woman to perform journey covering more than 120 kms. to appear before the Addl.District Judge, at Suryapet on every date of adjournment. But, that by itself is not a ground to withdraw and transfer the case in view of the guidelines issued by the Apex Court in KRISHNA VENI NAGAM V. HARISH NAGAM¹ where the Apex Court framed the following guidelines:

“In matrimonial or custody matters or in proceedings between parties to a marriage or arising out of disputes between parties to a marriage, wherever the defendants/respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of defendant/respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be:-

- i) Availability of video conferencing facility.

¹ AIR 2017 SC 1345

- 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.”

3. In view of above guidelines, inconvenience to undertake journey may not be a ground to withdraw and transfer O.P. from one Court to another and since she can be examined by video conference and distance is not a matter.

4. Therefore, the judgment of the Apex Court indirectly indicated that the distance is not a ground to withdraw and transfer the matter from one court to another and her appearance can be dispensed with before the Addl.District Judge, at Suryapet except on the date when her cross examination is required to be recorded in the event no video conference facility is available. Therefore, on the ground of inability to perform journey covering distance of 120 kms. in OP No.162 of 2016 pending on the file of the Addl.District Judge, at Suryapet, cannot be withdrawn and transferred.

5. In any view of the matter, taking into consideration of difficulty expressed by the petitioner in appearing before the Addl.District Judge, at Suryapet, I deem it appropriate to direct the Addl.District Judge, at Suryapet not to insist the appearance of the petitioner on every date of adjournment except on the day when her cross examination is required to be recorded or any other day when her personal appearance is ordered by the Addl.District Judge, at Suryapet, as long as she is being represented by her counsel to prosecute petition on her behalf. But, this order would not preclude the Addl.District Judge, at Suryapet to pass any order in accordance with law against the petitioner in the event, the

petitioner's counsel did not represent and prosecute the proceedings on her behalf.

6. With the above direction, the Tr.CMP is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in the revision petition shall stand closed.

M.SATYANARAYANA MURTHY,J

DATE:28-07-2017
ccm



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