

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.388 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.454 of 2017 pending on the file of Judge, Family Court, Hyderabad and transfer the same to the file of Family Court, Mahabubnagar on the ground that marriage of petitioner and respondent was performed at Mahabubnagar and the cause of action for the petition arises only within the Mahabubnagar District jurisdictional limits, but not within the local limits of Hyderabad and that the petitioner is house wife without any means to meet the expenses for traveling i.e. boarding, lodging etc to attend the Court at Hyderabad.

The cause of action varies from case to case and performance of marriage is part of cause of action. When the petitioner and respondent lived together lastly at a particular place will also give rise to cause of action to file the petition at a particular Court. Therefore, O.P. cannot be withdrawn and transferred on **that** ground as the marriage was performed within jurisdictional limits of Mahabubnagar Court.

The other ground raised by the petitioner is that she is a housewife and unable to meet the expenses to attend the Court but such ground is no more available in view of the judgment of the Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹ 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

¹ AIR 2017 SC 1345

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.*
- 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, 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. However, in view of difficulty expressed by the petitioner, the Judge, Family Court, Ranga Reddy, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required. This direction would not preclude the Court to pass any order against the petitioner in accordance with law for her failure to get the proceedings prosecuted through her counsel. If no facility of video conference is available, when the petitioner's presence is required, the respondent may be directed to deposit travelling, lodging, boarding and other incidental expenses vide guideline No.2 and furnish other details like address etc. to contact the petitioner vide guideline No.3. 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. This direction would meet the ends of justice to serve the purpose.

With the above direction, the Transfer Civil Miscellaneous Petition is disposed of.

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

M. SATYANARAYANA MURTHY J

Date: 19.06.2017
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