

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.630 OF 2016

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.15 of 2016 on the file of Senior Civil Judge, Siddipet, Medak District and transfer the same to the file of Judge, Family Court-cum-III Additional District and Sessions Judge, Warangal on the following grounds:

(i) M.C.No.37 of 2015 on the file of Judge Family Court, Warangal, filed by the petitioner herein was allowed directing the respondent to pay an amount of Rs.4,000/- per month to the petitioner and Rs.3,000/- per month to her daughter from the date of petition;

(ii) that the petitioner cannot undertake journey covering the distance of 200 kilometres to attend the Senior Civil Judge's Court at Siddipet, Medak District;

(iii) that it is difficult for the petitioner to attend the Court at Siddipet along with a small child on every date of adjournment and that the respondent is not a resident of Siddipet Village and he is residing at Hyderabad.

2. Notice on the respondent was served, but none appeared.

3. As stated above, the first ground for withdrawal and transfer of O.P., is the maintenance case i.e., M.C.No.37 of 2015 on the file of Judge, Family Court-cum-III Additional District and Sessions Judge, Warangal, was disposed of. But, mere disposal of the maintenance case is not a ground to withdraw O.P.No.15 of 2016 on the file of Senior Civil Judge, Siddipet and transfer the same to other Court.

4. The second ground is that the petitioner is unable to undertake journey covering the distance of 200 kilometres on every date of adjournment. No doubt, it is difficult for a woman to undertake journey on every date of adjournment. But that by itself is not a ground to withdraw and transfer the case, since the *forum non conveniens* based on the principle laid down in **Modi Entertainment Network and another v. W.S.G. Cricket Pte.Ltd**¹ is not a ground in view of latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam**², 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.”

¹ (2003) 4 SCC 341

² AIR 2017 SC 1345

In view of above guidelines, the inconvenience to undertake journey may not be a ground to withdraw and transfer O.P.No.15 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 200 kilometres, the Senior Civil Judge, Siddipet, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required, more particularly when the petitioner is required to be cross-examined by the counsel for the respondent (counsel for the petitioner in O.P.). This direction would meet the ends of justice to serve the purpose.

5. The third ground is that, it is difficult for the petitioner to undertake journey along with a small child as discussed earlier. But, it is not at all a ground to transfer the case. Even if her presence is required for cross-examination to be conducted by counsel for the respondent, she can travel along with a small child for one day or two days or otherwise she can be examined on video conference. Therefore, I find that all the three grounds are not tenable to withdraw O.P.No.15 of 2016 pending on the file of Senior Civil Judge, Siddipet, Medak District and transfer the same to the Judge, Family Court-cum-III Additional District and Sessions Judge, Warangal.

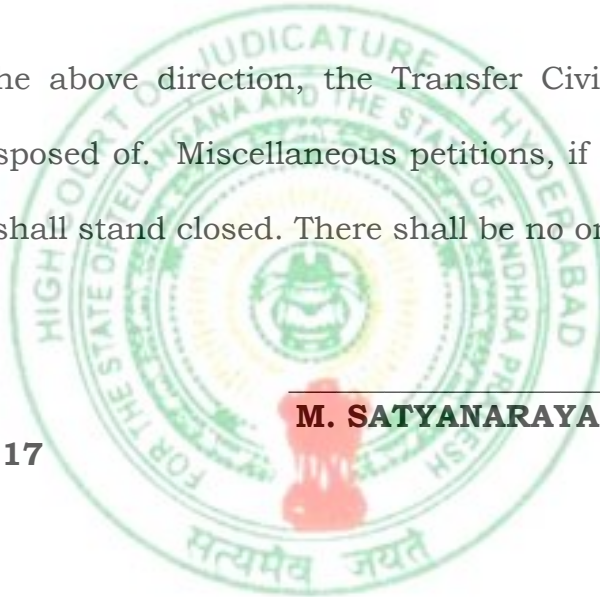
6. At the end, it is contended that the respondent is the resident of Hyderabad, whereas the petitioner is a resident of Warangal and it will cause inconvenience to the petitioner to appear before the Court at Siddipet, which is an alien place. As seen from the cause title of the petition, the respondent is a

resident of H.No.4-155/2, Kallakunta Colony, Near Masjid, Siddipet Town, Medak District, and not Hyderabad, as contended. That apart, the cause of action arose only within the jurisdiction of Senior Civil Judge's Court, Siddipet. Hence, I find no reason to withdraw O.P. 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 travel, lodging and boarding expenses 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.

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.

JUNE 02, 2017
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M. SATYANARAYANA MURTHY, J



THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 02.06.2017

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