

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.360 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.27 of 2017 on the file of Senior Civil Judge, Addanki, Prakasam District and transfer the same to the file of Judge, Family Court, Vijayawada, Krishna District.

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. under Section 10 of the Hindu Marriage Act seeking judicial separation. Admittedly, the petitioner is residing at Vijayawada along with her parents and the aforesaid O.P. is pending at Addanki, Prakasam District, which is almost 100 kilometres away from Vijayawada.

4. The ground for transfer of aforesaid O.P., is that the petitioner is residing along with her parents at Vijayawada and it is difficult for her to attend the Court at Addanki, Prakasam District on each and every date of adjournment. Admittedly, the respondent is not residing in Addanki and he is residing in Canada.

4. 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 alone without any assistance, Senior Civil Judge, Addanki, Prakasam District, 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 for cross-examination. However, this direction will not preclude the trial Court to pass any order

¹ AIR 2017 SC 1345

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

5. Hence, I find that the ground urged by the petitioner is not tenable to withdraw O.P.No.27 of 2017 on the file of Senior Civil Judge, Addanki, Prakasam District. 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.

6. 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
YVL

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



TR.C.M.P.NO.360 OF 2017

Date: 09.06.2017

YVL