

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.452 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw G.W.O.P.No.147 of 2017 on the file of Principal District Judge, Khammam and to transfer the same to the Family Court, Secunderabad on the following grounds:

- (i) that the petitioner is the resident of Seethaphalmandi, Secunderabad and it is difficult for her to undertake journey from Secunderabad to Khammam, which is more than 230 kilometres to appear before the Court on all dates of adjournments;
- (ii) that she has no means to travel from Secunderabad to Khammam along with her minor child, who is aged about 6 years and
- (iii) that she has life threat in the hands of respondent,

2. The first and foremost ground raised before this Court is that she is unable to undertake journey covering distance of 230 kms from Secunderabad to Khammam to appear before the Court on every date of adjournment. The matter pending before the Principal District Judge's Court, Khammam, is purely civil in nature. Hence, her presence on every date of adjournment is not required, as long as her counsel is representing her and prosecuting the case on her behalf. At best, her presence is necessary only when her cross-examination is required to be recorded by the Court or for any other reason whenever the Court directed her to appear before the Court. Therefore, her contention

that she is unable to appear before the Court on every date of adjournment is not a ground to withdraw and transfer the petition from Principal District Judge's Court, Khammam to Secunderabad Court. At best, she can be examined by video conference. If video conference is not available, she can seek appointment of Advocate Commissioner to record her cross-examination in case she is unable to move from Secunderabad for any other reason and if any such application is filed, the Principal District Judge, Khammam is requested to consider the application subject to bearing expenses as decided by the Court.

3. The second ground urged before this Court is that the petitioner has no means to undertake journey along with her minor child, who is aged six years. No doubt, the petitioner being a house wife cannot meet the expenses for travelling covering distance of more than 230 kilometres, but in such a case, the husband shall deposit the expenses for travelling, boarding and lodging in terms of Order XXV of CPC and on such payment or deposit, the petitioner shall appear before the Court for cross-examination or for any other specific purpose as directed by the Court. Therefore, lack of means to meet the expenses is not a ground to withdraw and transfer the petition.

4. The last ground urged before this Court is that the petitioner is facing life threat in the hands of respondent, but no material is produced to show that she is facing any such threat and no complaint was lodged either to the police or to the presiding officer whenever she attended the Court. However, if really she is facing life 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 Principal District Judge, Khammam 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.

5. In view of the above, I find that it is a fit case to direct Principal District Judge, Khammam, not to insist her appearance on every date of adjournment as long as her counsel representing her and prosecuting her case. But this order does not preclude the Court from passing any order in accordance with law against the petitioner in the event of failure of her counsel to represent and prosecute the case on her behalf.

6. 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

JULY 18, 2017
ssp