

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.453 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.35 of 2017 pending on the file of Senior Civil Judge, Jagitial and to transfer the same to the Court of Senior Civil Judge, Nirmal on the following grounds:

- (i) that the petitioner is the resident of Nirmal and it is difficult for her to undertake journey along with her child, who is aged 8 years, from Nirmal to Jagitial, which is nearly 100 kms, to appear before the Court on all dates of adjournments and
- (ii) 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 100 kms from Nirmal to Jagitial to appear before the Court on every date of adjournment. The matter pending before the Senior Civil Judge, Jagitial, 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 Senior Civil Judge's Court, Jagitial to the Senior Civil Judge's Court, Nirmal. 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 Nirmal for any other reason and if any such application is filed, the Senior Civil Judge 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 is facing life threat in the hands of respondent, but no material is produced to show that she is facing any such situation 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 Senior Civil Judge, Jagtial 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.

4. The contention of the petitioner is that she is unable to undertake journey along with her minor child who is aged 8 years but in view of the discussion in the earlier para, it is not a ground and in those circumstances, I find that it is a fit case to direct the Senior Civil Judge, Jagtial, 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.

5. 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.

JULY 18, 2017
ssp

M. SATYANARAYANA MURTHY, J

