

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CIVIL MISCELLANEOUS PETITION NO.247 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw F.C.O.P.No.274 of 2015 pending on the file of Judge, Family Court, Nellore and transfer the same to the Judge, Family Court, Malkajgiri or any other Court at Hyderabad or Ranga Reddy District.

Petitioner – wife contended that she was subjected to cruelty, harassment by the respondent – husband and conveniently filed divorce petition at Nellore stating that his wife subjected him to cruelty. She states that she is residing at her grandfather's house at Hyderabad and she, being a woman, is unable to undertake journey covering more than 400 kms and have no means to meet the expenditure.

As seen from the allegations made in the petition, there are two grounds for withdrawal and transfer of the petition pending before the Additional District Judge, Family Court, Nellore, namely, the petitioner is unable to undertake journey covering distance of 400 kilometres on every date of adjournment and has no means to meet the expenditure. No doubt, it is difficult for a woman to undertake journey on every date of adjournment. But that itself is not a ground to withdraw and transfer the case. The Apex Court in **Krishna**

Veni Nagam v. Harish Nagam¹ framed the following guidelines, while observing.....

“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 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 F.C.O.P.No.274 of 2015 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 400 kilometres, the Judge, Family Court, Nellore, is directed not to insist appearance on every date of adjournment, except on the dates where her presence is required record her evidence by video conference. 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

¹ AIR 2017 SC 1345

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 this petition shall stand closed. There shall be no order as to costs.

Date:14.06.2017
usd

M. SATYANARAYANA MURTHY, J

