

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.361 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw M.O.P.No.39 of 2017 on the file of Additional Senior Civil Judge, Srikakulam, and transfer the same to the file of Judge, Family Court, Visakhapatnam on the ground that the petitioner is unable to undertake journey as she is residing along with her children, who are aged about 11 years; and that she is working as an Ayah in a private school on meagre salary and that she is not having sufficient means to travel from Visakhapatnam to Srikakulam in connection with aforesaid O.P.

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 13 of the Hindu Marriage Act, for divorce. Admittedly, the petitioner is residing at Visakhapatnam along with her children and the aforesaid O.P. is pending at Srikakulam.

4. The ground for transfer of aforesaid O.P., is that the petitioner is residing along with her children at Visakhapatnam and she is working an Ayah in a private school on meagre salary and it is very difficult for her to attend the Court at Srikakulam in connection with aforesaid O.P. on each and every date of adjournment.

5. 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 Nagam**¹, 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 along with her children, Additional Senior Civil Judge, Srikakulam is directed not to insist the

¹ AIR 2017 SC 1345

petitioner to appear on every date of adjournment, as long as she is being represented by counsel, except on the dates when her presence is required, more particularly when her presence is required for cross-examination. If counsel did not represent the Court, Court pass orders in accordance with law. This order will not preclude the Court from passing any order in accordance with law. This direction would meet the ends of justice and serve the purpose.

6. Hence, I find that the ground urged by the petitioner is not tenable to withdraw M.O.P.No.39 of 2017 on the file of Additional Senior Civil Judge, Srikakulam. However, following the guidelines issued by the Hon'ble Apex Court in **Krishna Veni's case** (supra), the respondent is directed to deposit costs for 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.

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 09, 2017
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M. SATYANARAYANA MURTHY, J

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 09.06.2017

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