

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRCMP NO. 474 OF 2017

ORDER:

This transfer petition is filed under Section 24 of CPC to withdraw OP No.2511 of 2016 pending on the file of the Judge, Addl.Family Court-cum-IV Addl.District Judge, at LB Nagar, Ranga Reddy and transfer the same to the Judge, Family Court, at Warangal on the sole ground that she filed M.C.No.127 of 2016 pending on the file of the Judge, Family Court, at Warangal and that she is prosecuting her education and thereby it is difficult for her to appear before the Judge, Addl.Family Court, at Ranga Reddy.

The petition in O.P.No.2511 of 2016 was filed for dissolution of marriage under Section 13(ia)(ib) of Hindu Marriage Act. Whereas, maintenance case in M.C.No.127 of 2016 was filed under Section 125 Cr.P.C. before the Judge, Family Court, Warangal and both the cases are pending on the file of two different Courts. The proceedings under Section 125 Cr.P.C. are governed by the Criminal Procedure Code and whereas the petition filed under Hindu Marriage Act is governed by procedure contemplated under the Code of Civil Procedure. Therefore, these two matters cannot be tried together and decided. However, the consideration in a petition filed under Section 125 Cr.P.C. is totally different than the points to be decided in a petition under Section 13(ia)(ib) of Hindu Marriage Act. Therefore, pendency of maintenance case on the file of the Judge, Family Court at Warangal is not a ground to withdraw and transfer O.P.No.2511 of 2016 pending on the file of the Judge, Family Court, at Ranga Reddy.

Moreover, the other contention is that the petitioner is a student prosecuting her education at Warangal. No doubt, it is difficult for a

student to appear before the Judge, Family Court at Ranga Reddy on every date of adjournment, but, that by itself is not a ground to withdraw and transfer the petition to the Family Court at Warangal. At best, she is required to appear before the court only for recording her cross examination or for any other specific purpose as directed by the Court and she is not required to appear before the Court if her appearance is dispensed with by this Court. Even otherwise, the Family Courts are functioning on second Saturdays also. Therefore, she can appear before the Court at Ranga Reddy on second Saturday for recording her evidence if she is feeling such extreme inconvenience to appear before the Family Court at Ranga Reddy. Therefore, it is not a ground to withdraw and transfer the O.P. pending on the file of the Judge, Family Court at Ranga Reddy to the Judge, Family Court at Warangal.

Taking into consideration the facts and circumstances of the case, and the inconvenience being faced by the petitioner herein, I deem it appropriate to direct the Judge, Family Court at Ranga Reddy not to insist her appearance on every date of adjournment except on the day when her cross-examination is required to be recorded by the Court or for any specific other purpose as directed by the Court and preferably to record her cross-examination on second Saturday or any other Saturday when the court is working for deciding matrimonial cases pending before the Court, as long as she is being represented by her counsel and prosecuting case on her behalf. This direction would not preclude the Judge, Family Court to pass any appropriate order as per law in the event of her counsel fail to represent and prosecute the proceedings on her behalf.

With the above direction, the Tr.CMP is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in the revision petition shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:26.07.2017
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