

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.458 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw H.M.O.P.No.15 of 2017 on the file of the Senior Civil Judge, Parchuru and to transfer the same to the Family Court, Hyderabad on the following grounds:

- (i) that the petitioner being a woman, it is difficult for her to undertake journey from Hyderabad to Parchuru, which is more than 280 kilometres, to appear before the Court on all dates of adjournments,
- (ii) that she has no means to travel from Hyderabad to Parchuru,
- (iii) that she has to take care of her two minor children besides old aged parents and it is difficult for her to appear before the Senior Civil Judge, Parchuru on every date of adjournment leaving the old aged parents and minor children at Hyderabad and
- (iv) that she is facing life threat in the hands of respondent whenever she attends the Court at Parchuru.

2. The first and foremost ground raised before this Court is that she is unable to undertake journey covering distance of more than 280 kms from Hyderabad to Parchuru to appear before the Court on every date of adjournment. The matter pending before the Senior Civil Judge's Court, Parchuru 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, except on those two occasions, she is not required to appear before the Court at Parchuru. Consequently, the distance is not a ground to withdraw and transfer the petition from Senior Civil Judge's Court, Parchuru to the Family Court, Hyderabad.

3. The second ground urged before this Court is that the petitioner is unable to maintain herself and to meet the expenses for travelling, boarding and lodging at Parchuru. No doubt, the petitioner being a house wife cannot meet the expenses for travelling covering the distance of more than 280 kilometres, but in such a case, the husband shall deposit the expenses for travelling, boarding and lodging in terms of Order 25 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 third ground urged by the petitioner is that she is unable to undertake journey covering distance of more than 280 kilometres, leaving their minor children and old aged parents at Hyderabad. When the petitioner married to the respondent, she is supposed to take care of her children and husband instead of taking care of her children she is more interested to take care of her parents after marriage. The petitioner being aged 30 years is not expected to have young parents and therefore, it is not her obligation to take care of them after her marriage. So far as her minor children who are aged 7 and 12 years is concerned, they are

school going children. Therefore, leaving the children at home and to undertake the journey is not a ground to withdraw and transfer the petition and their necessities can be attended to by any others during her absence on one or two days. Even if she is facing serious inconvenience, she may apply for appointment of Advocate Commissioner to record her cross-examination subject to the decision with regard to expenses being incurred therefor. Consequently, the third ground is not a sufficient reason to withdraw and transfer the petition.

5. The fourth ground is that she is facing life threat in the hands of respondent whenever she attends the Court at Parchuru. No specific instance is brought to the notice of the Court about facing such life threat and no complaint is made till date complaining that she is facing life threat in the hands of the respondent. In the absence of any reasonable apprehension, it is difficult to accept her contention. However, if really, the petitioner is facing such life threat, she can give a complaint to the police having jurisdiction of the area where she faced life threat or to the presiding officer of the Court before whom the matter is pending and on such complaint, the presiding officer of the Court is requested to provide necessary police protection subject to bearing expenses whenever she attends the Court in connection with the above O.P. Therefore, none of the grounds raised by the petitioner are sufficient to withdraw and transfer the petition.

6. Keeping in view of the difficulties expressed by the petitioner, the Senior Civil Judge, Parchuru is requested not to insist her appearance on every date of adjournment as long as her counsel representing her and prosecuting her case on her behalf except on

the dates when her cross-examination is required to be recorded or any other specific purpose as directed by the Court. This direction 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.

7. 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 20, 2017

Note: Issue C.C. by 24.07.2017.

(B/o)
ssp

