

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRCMP NO. 455 OF 2017

ORDER:

This transfer petition is filed under Section 24 of CPC to withdraw OP No.15 of 2017 pending on the file of the Senior Civil Judge, Peddapally on the ground that the petitioner is working in Kakatiya Thermal Power Project and being a lady cannot perform journey covering distance of more than 100 kms. and that apart DVC No.4 of 2017 is pending on the file of the VI Addl.J.F.C.M., Warangal and C.C.No.29 of 2017 is pending before the I Addl.J.F.C.M., Warangal against the respondent for the offence punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. Therefore, it is difficult for her to appear before the Court at Peddapally and requested to withdraw and transfer the H.M.O.P.No.15 of 2017 to the Court of Family Judge, Warangal.

Admittedly, the petitioner is working in Kakatiya Thermal Power Project and it is difficult for her to appear before the court on every date of adjournment. But, the proceedings in H.M.O.P.No.15 of 2017 pending on the file of Senior Civil Judge, Peddapally are purely civil in nature and her appearance on every date of adjournment is not necessary as long as she is being represented by her counsel and prosecuting case on her behalf. Therefore, her appearance on every date of hearing performing journey from Warangal to Peddapally is not a ground, however, at best she is required to appear before the court on the date when her cross examination is required to be recorded or on any day when her appearance is required by the Court for any specific purpose. Therefore, distance is not a ground to withdraw and transfer the matter. Even otherwise, she can ask for appointment of advocate commissioner for

recording her cross examination even without appearing before the court.

The other ground urged is pendency of DVC and CC referred supra on the file of the I Addl.J.F.C.M., Warangal and VI Addl.J.F.C.M., Warangal, but they cannot be tried together with HMOP since they are governed by procedure under Cr.P.C. and C.P.C. Therefore, pendency of these matters at Warangal is not a ground to withdraw and transfer HMOP No.15 of 2017 pending on the file of the Senior Civil Judge, Peddapally to the Court at Warangal.

In view of the difficulty expressed by the petitioner, the Senior Civil Judge, Peddapally is requested not to insist her appearance on every date of adjournment except on the day when her cross examination is required to be recorded or any other specific purpose as directed by the Court as long as her counsel is representing her and prosecuting the case on her behalf. However, this direction would not preclude the Senior Civil Judge, Peddapally from passing any order in accordance with law in case petitioner's counsel did not represent and prosecute the case 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:19.07.2017
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