

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P.No.430 OF 2017

ORDER:

This petition is filed to withdraw H.M.O.P.No.30 of 2016 pending on the file of the Additional Senior Civil Judge, Kothagudem and to transfer the same to the Judge, Family Court, Addanki, Prakasham District on the ground that she is unable to perform journey covering more than 200 Kms., and that she is taking care of her old aged parents besides no means for herself to maintain and meet the expenses.

The first ground is that inability to perform journey covering more than 200 Kms., but H.M.O.P. pending before the Court is purely civil in nature and appearance of the petitioner on every date of adjournment is not required. At best her presence is required when her cross-examination is required to be recorded or for any other specific purpose when the Court directed her to appear before the Court, as long as her counsel is representing her case and prosecuting the case on her behalf. Therefore, her inability to perform journey is not a ground to withdraw and transfer the petitioner.

The other contention is that she is unable to meet the expenses but husband being an employee is able to maintain the petitioner and he is under obligation to deposit the

expenses for traveling, boarding and lodging in terms of Order XXV of Code of Civil Procedure whenever she is required to appear before the Court or the Court may also consider the possibility of appointment of Advocate Commissioner even for recording of her cross-examination. Therefore, lack of means is not a ground and in case she is required to appear personally the trial Court is requested to direct the husband to deposit traveling, boarding and lodging expenses in terms of Order XXV of Code of Civil Procedure.

The third ground is that she is taking care of her old aged parents but that will never be a ground to withdraw since she is expected to live along with her husband after marriage, therefore, none of the grounds raised in the petition are sufficient to withdraw and transfer H.M.O.P.No.30 of 2016.

In view of the facts and circumstances stated above, the Additional Senior Civil Judge, Kothagudem is requested not to insist the appearance of the petitioner herein on every date of adjournment as long as her counsel representing her and prosecuting the proceedings on her behalf and record her cross-examination by videoconference, if not available, the respondent be directed to deposit traveling, boarding and lodging expenses in terms of Order XXV of Code of Civil Procedure and on such deposit the petitioner shall appear

before the Court and depose. This direction does not preclude the Additional Senior Civil Judge, Kothagudem to pass any order against the petitioner in the event of her counsel failed to represent and prosecute the proceedings, in accordance with law.

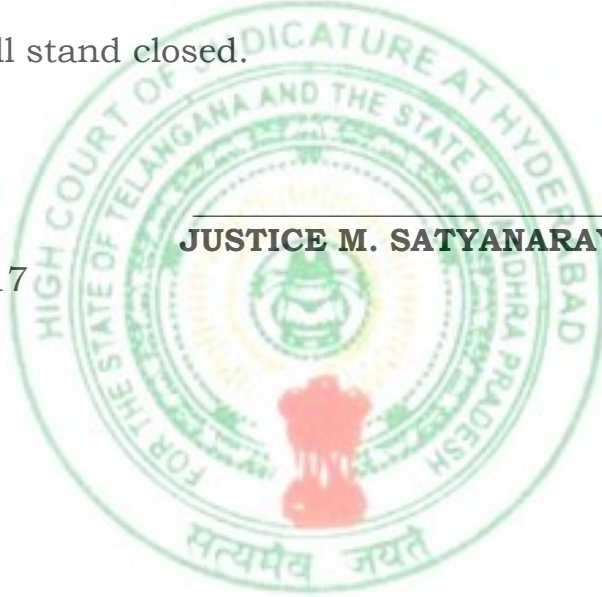
With the above direction, the petition is disposed of at the stage of admission. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this petition shall stand closed.

July 12, 2017

Pn

JUSTICE M. SATYANARAYANA MURTHY



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



TRANSFER C.M.P.No.430 OF 2017

July 12, 2017

Pn