

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.467 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw F.C.O.P.No.1947 of 2015 pending on the file of IV Additional District Judge-cum-Family Court, Ranga Reddy District at L.B. Nagar, Hyderabad and to transfer the same to the file of Family Court, Nizamabad on the following grounds:

- (i) that the petitioner being a woman, it is difficult for her to undertake journey from Nizamabad to Ranga Reddy District, which is more than 230 kilometres, to appear before the Court on all dates of adjournments;
- (ii) that she has no means to meet the travelling expenses and
- (iii) that she has to take care of her minor child.

2. Heard learned counsel for the petitioner.

3. The first and foremost ground is that the petitioner is unable to undertake journey covering distance of more than 230 kilometres on every date of adjournment. No doubt, it is difficult for a woman to undertake journey on every date of adjournment. But that by itself is not a ground to withdraw and transfer the petition in view of the latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹, wherein 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

¹ AIR 2017 SC 1345

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.”

The above guidelines indirectly indicated to avoid withdrawal and transfer of matrimonial matters from one Court to another Court. The inconvenience for the petitioner to undertake journey may not be a ground to withdraw and transfer the said O.P. from one Court to another and at best, the witness can be examined by video conference. If video conference is not available, she can seek appointment of Advocate Commissioner to record her cross-examination subject to the decision with regard to expenses being incurred therefor. Consequently, the first ground is not a sufficient reason to withdraw and transfer the petition.

4. The second ground urged before this Court is that the petitioner has no means to meet the expenses for travelling, boarding and lodging at Ranga Reddy District. No doubt, the petitioner being a house wife may not be in a position to meet the expenses for travelling covering distance of more than 230 kilometres, but in such a case, the husband shall deposit the

expenses for travelling, boarding and lodging in terms of Order XXV 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.

5. The last ground urged before this Court is that she is unable to undertake journey along with her minor child but in view of the discussion in the earlier para, it is not a ground and in those circumstances, I find that it is a fit case to direct the IV Additional District Judge-cum-Family Court, Ranga Reddy District, not to insist the petitioner to appear 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.

6. 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 24, 2017

ssp