

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.394 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.808 of 2017 on the file of Judge, Family Court, L.B.Nagar, Ranga Reddy District and transfer the same to the Judge, Family Court, Vijayawada to try along with M.C.No.165 of 2017 and O.P.No.173 of 2017 pending on the file of Judge, Family Court, Vijayawada.

2. Heard learned counsel for the petitioner at the stage of admission.

3. The petitioner is wife of the respondent. The respondent herein filed F.C.O.P.No.808 of 21017 on the file of Judge, Family Court, L.B.Nagar, Ranga Reddy District, under Section 13 (i) (ia) of the Hindu Marriage Act, 1955 for dissolution of marriage on the ground of cruelty, whereas the petitioner filed M.C.No.165 of 2017 and O.P.No.173 of 2017 on the file of Judge, Family Court, Vijayawada and the same are pending. Mere pendency of cases before the Judge, Family Court, Vijayawada is not a ground to withdraw and transfer the present O.P. to Vijayawada.

4. The grounds urged by the petitioner are no more subsisting for withdrawal and transfer of the cases from one Court to another, in view of the judgment in **Krishna Veni Nagam v. Harish Nagam**¹, wherein the Apex Court at para No.18 held as follows:

“18. We, therefore, direct that in matrimonial or custody matters or in proceedings between parties to a

¹ AIR 2017 SC 1345

marriage or arising out of disputes between parties to a marriage, wherever the Defendants/Respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of Defendants/Respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be:

- 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.”

As per the guidelines laid down by the Apex Court, it implies petitioner can be examined by video conferencing while staying at Vijayawada. In case, no video conferencing facility is available, the husband shall be insisted to deposit costs of travelling, lodging and boarding in terms of Order XXV CPC while directing the husband to furnish e-mail address/phone number, if any, at which the litigant from outstation. On such deposit, the petitioner shall appear before the trial Court for the purpose of cross-examination or for any other purpose as directed by the Court.

5. In view of the above, the Judge, Family Court, L.B.Nagar, Ranga Reddy District, is requested not to insist for presence of the petitioner on every date of adjournment and on the date when her presence is required by the respondent's counsel or for any other purpose as long as the counsel representing her prosecuting the case before the Court. However, this direction shall not preclude the trial Court from passing any order, in accordance with law, in

the event the counsel failed to represent or prosecute the proceedings on her behalf. The Judge, Family Court, L.B.Nagar, Ranga Reddy District, is bound to adhere to the guidelines issued by the Apex Court in the case referred supra.

6. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed. There shall be no order as to costs.

JUNE 21, 2017
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M. SATYANARAYANA MURTHY, J



THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 21.06.2017

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