

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.471 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908 (for short, 'CPC') is filed by the petitioner to withdraw O.P.No.23 of 2016 from the file of Principal Senior Civil Judge, Nandikotkur and transfer the same to the file of Judge, Family Court, Anantapur on the ground that she is totally depending upon her parents and she has no means to meet the expenses to attend the Court in connection with aforesaid O.P. and if the said O.P. is transferred to Judge, Family Court, Anantapur, no prejudice will be caused to the respondent.

2. The petitioner is wife of the respondent. The respondent filed the aforesaid O.P.No.23 of 2016 under Section 13 (i) (ia) and (ib) of the Hindu Marriage Act, 1955 for dissolution of marriage.

3. It is not in dispute that the petitioner has to attend the Court in connection with the subject O.P. on every date of adjournment. But, the difficulty expressed by the petitioner is that she is unable to undertake journey covering distance of 190 km without any male assistance as she had no means. It is not necessary for the petitioner to appear before the Court below on each and every date of adjournment, if her personal appearance is dispensed with. **In Krishna Veni Nagam's case**, the Hon'ble Apex Court issued certain guidelines to the Judges, which read 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 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.”

Taking into consideration the directions issued by the Apex Court, the witness can be examined by video conferencing in matrimonial cases and in case no video conferencing facility is available, husband shall be directed to deposit expenses for travelling, lodging and boarding in terms of Order XXV CPC and on such deposit, the petitioner shall appear before the trial Court for recording her cross-examination. Therefore, the difficulty expressed by the petitioner is not sufficient ground to exercise the power under Section 24 CPC to withdraw O.P.No.23 of 2016 pending on the file of Principal Senior Civil Judge, Nandikotkuru.

4. Keeping in mind the difficulty expressed by the petitioner and taking into consideration the facts and circumstances of the case, the Principal Senior Civil Judge, Nandikotkuru, is directed not to insist appearance of the petitioner on every date of adjournment, as long as she is being represented by her counsel and prosecuting her case, except on the date when her presence is required for recording cross-examination of the petitioner herein by the Court or for any other purpose. But, this direction would not preclude the Court below from passing any order in the event the counsel failed to represent or prosecute the proceedings on her behalf.

5. Accordingly, 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.

M. SATYANARAYANA MURTHY, J

JULY 25, 2017
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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



Tr.C.M.P.No.471 of 2017

Date: 25.07.2017

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