

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

TRANSFER CIVIL MISCELLANEOUS PETITION
NO.546 OF 2016

ORDER:

This transfer civil miscellaneous petition, under Section 24 of Code of Civil Procedure, 1908, is filed by the petitioner/wife requesting to withdraw F.C.O.P.No.1009 of 2016 pending on the file of the Family Court, L.B. Nagar, Ranga Reddy District, and transfer the same to the file of the Court of the learned Senior Civil Judge, Bhimavaram.

2. I have heard the submissions of learned counsel for the petitioner and I have perused the material record.

3. Learned counsel for the petitioner submits that the notice sent to the last known address of the respondent was returned with an endorsement 'unclaimed' and, therefore, the notice is deemed to have been served. The respondent did not enter appearance.

4. The case of the petitioner and the submissions made on her behalf, in brief, are as follows:

The petitioner is the wife of the respondent. After matrimonial dispute and estrangement between the parties, the petitioner filed a criminal complaint against the

petitioner. And, a Calendar Case, which was taken on file, is pending on the file of the Court of the learned II Additional Judicial Magistrate of First Class, Bhimavaram. The petitioner also filed M.C.No.53 of 2016 on the file of the Court of the learned II Additional Judicial Magistrate of First Class, Bhimavaram. The respondent having put in appearance is resisting the Maintenance Case. He is also required to appear in the Calendar Case, pending in the Court at Bhimavaram. However, the respondent filed F.C. O.P.No.1009 of 2016 in the Family Court at L B Nagar, Ranga Reddy District seeking restitution of conjugal rights. He is also a resident of Eluru. The petitioner being a housewife is not in a position to undertake travel from Bhimavaram to Ranga Reddy District, which is at a distance of 500 Kms. She has no means to meet the traveling, lodging and incidental expenses. She cannot undertake travel to such a long distance place all alone without the assistance of another person. On the date of every adjournment she has to look for assistance of one person to accompany her from Bhimavaram to Hyderabad, to attend the Court case at Ranga Reddy District. Further, if the instant case filed by the respondent/husband is also brought to a Court at Bhimavaram, all the Court Cases would be in the Courts at one place, that is, Bhimavaram,

and the said course would not only be convenient to both the parties but also would be helpful to the parties in saving their valuable time and money.

5. As already noted, the respondent is not resisting the application and is not coming forward to offer to pay the traveling, lodging and incidental expenses to the petitioner-wife and another person, who may accompany her during her travel from Bhimavaram to Hyderabad for attending the Court cases at Ranga Reddy District. Though there is video conference facility in the Court Complex, Ranga Reddy District, there is no such facility at Senior Civil Court, Bhimavaram. Further, though there is video conference facility in the Court Complex, Eluru, the District Head Quarters, the distance between Bhimavaram and Eluru is about 50 Kms according to the submissions.

6. Having regard to the reasons supra and the facts peculiar to the case including the specific facts that the respondent is not offering to pay the necessary travelling & incidental expenses to the petitioner/wife and is not resisting the application, this Court is of the considered view that the relief sought for, if granted, would meet the ends of justice.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.1009 of 2016 pending on the file of the Family Court, L.B. Nagar, Ranga Reddy District, is withdrawn from the file of the said Court and is transferred to the file of the Senior Civil Court, Bhimavaram, West Godavari District, for trial and disposal, in accordance with the procedure established by law. The transferor Court is directed to transmit the duly indexed record to the transferee Court, expeditiously.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, in this transfer civil miscellaneous petition shall stand closed.

M. SEETHARAMA MURTI, J

August 30, 2017

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