

The Hon'ble Sri Justice M.Satyanarayana Murthy

Transfer CMP.No.21 of 2018

Order:

This Transfer CMP is filed by the petitioner under Section 24 of the Code of Civil Procedure, 1908 (for short 'the CPC') to withdraw FCOP.No.944 of 2017, from the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the file of the Judge, Family Court at Guntur.

The above FCOP was filed by the respondent under Section 13 (1) (i-a) (i-b) of the Hindu Marriage Act, 1955, for dissolution of marriage by granting decree of divorce.

The first and foremost ground raised by the petitioner before this Court is that FCOP.No.60 of 2015 filed by her for grant of maintenance under Section 125 Cr.P.C., is pending on the file of the Judge, Family Court –cum- XII Additional District and Sessions Judge at Guntur, and Crime No.115 of 2013 registered against the respondent on the report lodged by her is pending investigation with the Station House Officer, Pattabhipuram, Guntur Urban; that she has been attending the Family Court at Guntur in connection with FCOP.No.60 of 2015 and that if FCOP.No.944 of 2017

is not transferred to the Judge, Family Court at Guntur, she would face much difficulty for appearing before the Judge, Family Court at LB Nagar, Ranga Reddy District.

At the hearing, the learned Counsel for the petitioner, while reiterating the contentions urged in the petition, raised a new ground that the petitioner is suffering from ill health and that it is difficult for her to appear on every date of adjournment before the Judge, Family Court at L.B.Nagar, Ranga Reddy District, in connection with FCOP.No.944 of 2017. Therefore, requested this Court to pass an order withdrawing FCOP.No.944 of 2017 from the said Court and transferring the same to the Family Court at Guntur.

The first ground urged by the petitioner is that FCOP.No.60 of 2015 filed under Section 125 of Cr.P.C., is pending on the file of the Judge, Family Court at Guntur whereas FCOP.No.944 of 2017 filed by the respondent under Section 13 (1) (i-a) and (i-b) of the Hindu Marriage Act, 1955, is pending on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar. These two matters need not be tried together and mere pendency of FCOP.No.60 of 2015 in the Family Court at Guntur is not a ground to

withdraw the FCOP.No.944 of 2017 pending before the Judge, Family Court at Ranga Reddy District.

The other ground urged by the petitioner is that she is suffering from ailment and that she is not in a position to attend the Family Court at LB Nagar on every date of adjournment as per the provisions of the Family Courts Act, 1984. This Court, in exercise of its supervisory powers, can direct the Judge, Family Court, to dispense with the appearance of the petitioner on every date of adjournment.

Accordingly, the Judge, Family Court, Ranga Reddy District at LB Nagar, is directed not to insist for appearance of the petitioner on every date of adjournment except on the date on which her appearance is specifically required for any purpose including reconciliation so long as she is represented by her Counsel. If, for any reason, the petitioner is required to appear before the Court, the respondent is directed to pay travelling and other incidental expenses to both the petitioner and the person, who accompanied her, to the Court in connection with FCOP.No.944 of 2017. Even if the petitioner is unable to appear before the Court on the date for the purpose of recording her cross-examination, she may apply for appointment of an Advocate-Commissioner

under Order XXVI Rule 1 CPC. On filing such application, the Judge, Family Court, may consider her request and the expenses thereof shall be directed to be borne by the respondent/husband. However, this order will not preclude the Judge, Family Court, Ranga Reddy District at L.B.Nagar, from passing any order in accordance with law, in case, the petitioner's Counsel does not represent the case on her behalf and she fails to appear before the Court.

With the above direction, the Petition is disposed of.

(M. Satyanarayana Murthy, J)

Dt: 24th January, 2018
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