

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.49 of 2018

ORDER.

This Petition is filed under Section-24 of the Code of Civil Procedure to withdraw HMOP.No.322 of 2017 pending on the file of the III Additional Senior Civil Judge, Kakinada, East Godavari District and transfer the same to the Court of Senior Civil Judge, Nuzvid, Krishna District.

The petitioner stated that CC.No.228 of 2013 filed against the respondent is pending before the Additional Judicial First Class Magistrate, Nizvid and the Revision filed by the respondent against the petitioner is also pending before the XV Additional District and Sessions Judge, Nuzvid and he is appearing in the said cases, and in case, the above HMOP is withdrawn from the Court of the III Additional Senior Civil Judge, Kakinada, East Godavari District and transferred to the Court of Senior Civil Judge, Nuzvid, Krishna District, no prejudice will be caused to the respondent.

The first ground urged by the learned counsel for the petitioner is that the cause of action arose near to Nuzvid, which is within the jurisdictional limits of Senior Civil Judge, Nizvid and the other ground is that the petitioner has to take care of a child aged four years and thereby, it is difficult for her to appear

before the Court of the Senior Civil Judge, Kakinada in connection with the above case on every date of adjournment.

No doubt, the respondent may be appearing before the Courts at Nuzvid in connection with the above two cases, but it is to be noted that even if the said HMOP is withdrawn and transferred as prayed for, it would not serve any purpose except to reduce the journey of the petitioner and apart from that, the said CC has to be tried as per the procedure contemplated under the Code of Criminal Procedure, whereas the said HMOP has to be tried as per the procedure contemplated under the Family Courts Act and the Civil Procedure Code.

The other ground urged by the learned counsel for the petitioner is that the petitioner while taking care of a child aged four years is unable to appear before the Court at Kakinada on every date of adjournment. In my view, this difficulty can be met by directing the III Additional Senior Civil Judge, Kakinada, East Godavari District not to insist for appearance of the petitioner on every date of adjournment except on the day when her appearance is required for reconciliation proceedings or on the day when she was specially directed to appear before the Court, subject to payment of travelling and other incidental expenses like food, shelter, etc both to the petitioner and the person who accompanies her to attend the Court in connection with the

above case as long as the counsel is representing her in the above HMOP. In case, the counsel does not represent the petitioner before the Court, the learned Judge is not precluded from passing any order in accordance with law. Therefore, if these directions are issued, the distance is not a matter of difficulty for the petitioner. Hence, I find no grounds to allow this Petition.

However, the III Additional Senior Civil Judge, Kakinada, East Godavari District, is directed not to insist for appearance of the petitioner on every date of adjournment except on the day when her appearance is required for reconciliation proceedings or on the day when she was specially directed to appear before the Court, subject to the respondent paying the travelling and other incidental expenses like food, shelter, etc both to the petitioner and the person who accompanies her to attend the Court in connection with the above case as long as the counsel is representing her in the above FCOP. In case, the counsel does not represent the petitioner before the Court, the learned Judge is not precluded from passing any order in accordance with law.

Subject to the above directions and observations, the Petition is disposed of.

As a sequel, the Miscellaneous Petitions, if any, pending shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

05th February 2018

DR

