

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.CIVIL MISCELLANEOUS PETITION NO.463 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw HMOP.No.167 of 2016 pending on the file of Principal Senior Civil Judge, Narasaraopet, Guntur District and transfer the same to the file of the Judge, Family Court, Secunderabad.

The petitioner contended that he is working as doctor at Saudi Arabia and it is difficult for him to appear before the Court at Narsaraopet undertaking journey, as there were no direct flights from Abu Dubai to Gannavaram and he is not eligible to avail any kind of leave except public holidays as he is a contract employee, whereas, the respondent is housewife, residing at Narsaraopet. The petitioner filed FCOP No.296 of 2016 before the Judge, Family Court, Secunderabad. In case both the cases are tried by two different Courts, there is every possibility of conflicting decisions and to avoid such conflicting decision, the petitioner sought for withdrawal of HMOP No.167 of 2016, pending on the file of Principal Senior Civil Judge, Narasaraopet and transfer the same to the Judge, Family Court, Secunderabad.

During hearing learned counsel for the petitioner while reiterating contentions urged in the petition, expressed his readiness of the petitioner to bear expenses for the respondent to undertake journey from Narsaraopet to Secunderabad in the event of withdrawal and transfer of OP.

It is undisputed fact that both the parties filed separate OPs. If for any reason, those two OPs are tried by two different Courts, there is every possibility of conflicting judgment. The respondent did not seek for withdrawal of O.P.No.296 of 2016.

The ground urged by the petitioner that he is facing inconvenience to appear before the Court at Narasaraopet. No doubt, it is difficult to undertake journey to appear before the Court on every date of adjournment. According to Section 11 of the Family Court's Act, if there is any serious allegation touching the character of either of the parties, the Court may proceed with the trial in-camera.

The Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹ laid down certain guidelines for recording evidence in matrimonial cases. Those guidelines are modified by the Full Bench of the Apex Court in **Santhini v. Vijaya Venketesh**². However, laid down three guidelines and the one of the guideline is that after completion of reconciliation, in the event of failure, the parties may chose to examine by video conference and if they gave consent for such video conference, the Court can proceed to record evidence of witnesses by video conference, but till that stage, the petitioner has to appear before the Court only for limited purpose of reconciliation. Therefore, I find no grounds to withdraw and transfer HMOP No.167 of 2016

Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

30.10.2018

kvrn

M. SATYANARAYANA MURTHY, J



¹ (2017) 4 SCC 150

² (2018) 1 SCC 1