

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P.No.53 of 2018

ORDER.

This Petition is filed under Section-24 of the Code of Civil Procedure to withdraw OP.No.1494 of 2016 pending on the file of the XV Additional District Judge-cum-Family Court, Ranga Reddy District at Miyapur and transfer the same to the Court of Senior Civil Judge, Bhongir, Yadadri-Bhongir District or to any other competent Court on the grounds that the petitioner being a lady aged 23 years is unable to undertake journey covering distance of 100 kms to appear before the Court at Miyapur, Ranga Reddy District on every date of adjournment and apart from that, the MC and DVC filed against the respondent are pending before the Judicial First Class Magistrate, Alair, Yadadri-Bhongir District.

The order of the day is to file as many cases as possible immediately after receipt of summons in HMOP, either for divorce or for any other relief under Section-9 of the Hindu Marriage Act.

The MC and DVC were filed by the petitioner in the year 2017 whereas the OP was filed by the respondent in the year 2016. This fact is suffice to conclude that immediately after receipt of notice OP.No.1494 of 2016, the petitioner filed the

aforesaid two cases, i.e., MC and DVC before the Judicial First Class Magistrate, Alair, Yadadri-Bhongir District.

The petitioner sought to withdraw the OP from the file of the Judge, Family Court, Miyapur and transfer the same to the Court of Senior Civil Judge, Bhongir, Yadadri-Bhongir District. But, it is to be noted that the above OP is pending before the Family Court, which is presided by a Senior officer in the lower judiciary *i.e.*, District Judge, cannot be transferred to a Court presided by the Senior Civil Judge. Even if the said FCOP is withdrawn and transferred as prayed for, it would not serve any purpose except to reduce the journey of the petitioner and apart from that, the said MC and DVC are being tried as per the procedure contemplated under the Code of Criminal Procedure whereas the said OP has to be tried as per the procedure contemplated under the Family Courts Act and the Civil Procedure Code.

The distance between Alair and Miyapur is 100 kms and the petitioner being a lady of 23 years old can undertake journey covering distance of 22 kms, but not 100 kms, but such difficulty can be solved by issuing appropriate directions to the Judge, Family Court.

According to the Rules framed under the Family Courts Act, the petitioner is required to appear before the Court on

every date of adjournment and if inconvenience is only to undertake journey covering a distance of 100 kms, issue of a direction to the learned XV Additional District Judge-cum-Family Court, Ranga Reddy District at Miyapur not to insist for personal appearance of the petitioner on every date of adjournment, except on the day where her appearance is required in connection with for reconciliation proceedings or for any other specific purpose when her personal appearance is required, would serve the purpose. 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, taking into consideration the facts and circumstances of the case, the learned XV Additional District Judge-cum-Family Court, Ranga Reddy District at Miyapur, is directed not to insist personal appearance of the petitioner on every date of adjournment, except on the day where her appearance is required for reconciliation proceedings or when she was specially directed to appear before the Court, subject to the respondent paying 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 OP. 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

06th February 2018

DR

