

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 66 OF 2018

ORDER:

This transfer civil miscellaneous petition under Section 24 of the Code of Civil Procedure (for short, 'C.P.C.') is filed to withdraw OP.No.164 of 2017, pending on the file of Senior Civil Judge, Peddapally, Karimnagar District and transfer the same to the Principal Senior Civil Judge, Mancherial.

OP is filed by the respondent/husband under Section 3(1)(ib) of the Hindu Marriage Act for dissolution of marriage. The petitioner/wife is the respondent in OP.

The petitioner expressed her inability to attend the Court at Peddapalol, Karimnagar District, in connection with OP by undertaking journey of more than 80 kms from Manchirial to Peddapally, Karimnagar District, on every date of adjournment along with her son and that she is depending upon her parents, who are residing at Manchirial and that she has no means to meet the expenses of traveling and other incidental charges.

During hearing, learned counsel for the petitioner contended that the petitioner is unemployed and as she has no independent source of income to maintain herself and her son, it is difficult for her to meet the traveling and other incidental expenses and apart from that it is difficult for her to undertake journey covering distance of 80 kms. Therefore, prayed for transfer of OP. It is also argued that when the respondent was harassing the petitioner mentally and physically for additional dowry, she lodged a report with the police Mancherial on 24.03.2017,

which is registered as Crime No.11 of 2017 for the offence punishable under Section 498-A and Sections 3 and 4 of the Dowry Prohibition Act and the same was pending for investigation.

OP is being tried as per the procedure governed by C.P.C and the rules framed under the Hindu Marriage Act, but not as per the procedure governed by Cr.P.C. and the petitioner is not required to appear before the Court on every date of adjournment as long as her counsel is representing except for reconciliation and for recording her cross examination or for any other purpose as directed by the Court. The inability to undertake journey covering distance of 80 kms at the age of 29 years is not believable, but the respondent shall pay traveling and other incidental expenses whenever she attends the Court in connection with O.P. However, the Senior Civil Judge, Peddapally, Karimnagar District is directed not to insist personal appearance of the petitioner on every date of adjournment, except when her personal appearance is required for reconciliation or for any other purpose under the Act, as long as she being represented by her counsel and in case, when she is required to appear before the Court, the respondent be directed to pay traveling and other incidental expenses not only to the petitioner, but also to the person who accompanied her to attend the Court in connection with OP No.164 of 2017. This direction will not preclude the Court to pass any order in accordance with law, in case of her counsel failure to represent the matter.

With the above direction, the Tr.C.M.P. is disposed of. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

M.SATYANARAYANA MURTHY, J.

Date: 08.02.2018
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