

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.74 of 2018

ORDER

This petition under Section 24 of C.P.C., is filed to withdraw HMOP No.125 of 2017 pending on the file of Senior Civil Judge, Markapur, Prakasham District and transfer the same to the Court of Senior Civil Judge, Adoni, Kurnool District, on the ground that the petitioner filed DVC No.16 of 2016 and M.C.No.50 of 2016 on the file of Judicial First Class Magistrate, Adoni and C.C.No.71 of 2017 is also pending for adjudication before the Additional Judicial Magistrate of First Class, Adoni and that as the respondent-husband filed a divorce petition in H.M.O.P.No.125 of 2017 on the file of Senior Civil Judge, Markapur, and the distance between these two places is about 300 kms., she is not in a position to appear before the Court at Markapur, Prakasham District, by undertaking journey on every date of adjournment and that she being a lady, it is difficult for her to attend the Court at Markapur, even if the distance is minimum and requested this Court to withdraw HMOP No.125 of 2017 filed under Section 13(1)(IA)(IB) of Hindu Marriage Act, for dissolution of marriage by granting a decree of divorce, and transfer the same to the Court of Senior Civil Judge, Adoni.

2. At the stage of admission, the counsel for petitioner Sri B. Vijaya Bhaskar, reiterated the contentions urged in the petition and requested to pass appropriate order withdrawing HMOP No.125 of 2017 pending on the file of Senior Civil Judge, Markapur and transfer the same to the Senior Civil Judge, Adoni, Kurnool District.

3. Undoubtedly, the three matters i.e., D.V.C.No.16 of 2016, M.C.No.50 of 2016 and C.C.No.71 of 2017 are pending on the file of Judicial First Class Magistrate at Adoni and the procedure for trial of those matters is covered by Cr.P.C., whereas HMOP No.125 of 2017 has to be tried by following the procedure prescribed under Hindu Marriage Act and the provisions of CPC. Therefore, on the ground of pendency of three matters on the file of Judicial Magistrate of First Class, Adoni, HMOP No.125 of 2017 cannot be withdrawn and transferred.

4. The other ground urged before this Court is that the petitioner is unable to undertake journey to attend the Court at Markapur, which is at a distance of 300 kms., in connection with HMOP No.125 of 2017, which is purely civil in nature and that the appearance of petitioner on the every date of adjournment before the Senior Civil Judge, Markapur, is not imperative, except her appearance on the date of reconciliation proceedings and on the date when her cross-examination is required to be recorded by the Court. Therefore, she is required to appear before the Court on two or three occasions during pendency of HMOP and that to undertake journey covering distance of 300 KMs for the petitioner at the age of 26 years on two or three occasions is not an arduous task. However, the Senior Civil Judge, Markapur, is directed not to insist personal appearance of petitioner on every date of adjournment, except on the date of reconciliation proceedings or on the date when her personal appearance is required for any other purpose as directed by the Court or on the date of recording her cross-examination before the

Court in connection with HMOP No.125 of 2017 as long as she is being represented by her counsel and whenever the personal appearance of petitioner is required, the respondent be directed to pay travelling and other incidental expenses for her stay, food etc, not only to her but also to the person, who accompanies her, to appear before the Court in connection with the said OP. But this order would not preclude the Senior Civil Judge, Markapur, to pass any order in accordance with law, in the event of failure of her counsel to represent the matter.

5. With the above direction, the Transfer CMP is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

14th February, 2018

sj



M. SATYANARAYANA MURTHY, J