

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 84 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 FCOP.No.867 of 2016, pending on the file of the Judge, Family Court, Visakhapatnam and transfer the same to the Judge, Family Court, Vizianagaram.

O.P. is filed by the respondent/husband under Section 13(i)(ia) of the Hindu Marriage Act for dissolution of marriage. The petitioner/wife is the respondent in O.P.

The petitioner expressed her inability to attend the Court at Visakhapatnam in connection with O.P. by undertaking journey from Vizianagaram to Visakhapatnam, on every date of adjournment and that she is depending upon her parents, who are residing at Vizianagaram and that she has no means to meet the expenses of travelling and other incidental charges.

During hearing, learned counsel for the petitioner contended that the petitioner has no independent source of income to maintain herself, 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 from Vizianagaram to Visakhapatnam. Therefore, prayed to withdraw and transfer OP.

The petitioner is not in a position to undertake journey covering distance of 60 kms on every date of adjournment. As per the rules framed under the Family Courts Act, the petitioner is required to appear before the Court on every date of adjournment, if a direction is given to the Judge, Family Court not to insist her appearance on every date of adjournment as long as her counsel is representing, except for reconciliation and for recording her cross examination would serve the purpose of the petitioner. The ground of inability to undertake journey covering distance of 60 kms at the age of 29 years is not available, but the respondent shall pay traveling and other incidental expenses whenever she attends the Court in connection with O.P.

In such a case, withdrawal of OP from the Court at Visakhapatnam and transfer to the Court at Vizianagaram would not serve any purpose except causing inconvenience to the respondent. Therefore, I am not inclined to withdraw and transfer OP. However, the Judge Family Court, Visakhapatnam 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 the person who accompanied her to attend the

Court in connection with O.P. This direction will not preclude the Court below to pass any order in accordance with law in the event of failure of her counsel to appear or represent.

With the above directions, 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: 19.02.2018
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