

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr. CIVIL MISCELLANEOUS PETITION No.413 of 2016

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of CPC, is filed by the Petitioner to withdraw HMOP No.175 of 2015 from the Court of III Additional Senior Civil Judge, Kakinada and transfer the same to the Court of Judge, Family Court, Vijayawada, on the ground that DVC No.111 of 2014 and OP No.583 of 2013 under Section 18 of Hindu Adoption and Maintenance Act are pending before the Courts at Vijayawada and on account of pendency of different cases in various Courts at Vijayawada, she is unable to undertake journey covering distance of about 250 Km to appear before III Additional Senior Civil Judge, Kakinada along with her child aged four years on every day of adjournment by spending huge amount.

During hearing, learned counsel for the petitioners, while reiterating the contentions urged in the petition, requested this Court to withdraw HMOP No.175 of 2015 pending on the file of III Additional Senior Civil Judge, Kakinada and transfer the same to the Judge, Family Court at Vijayawada.

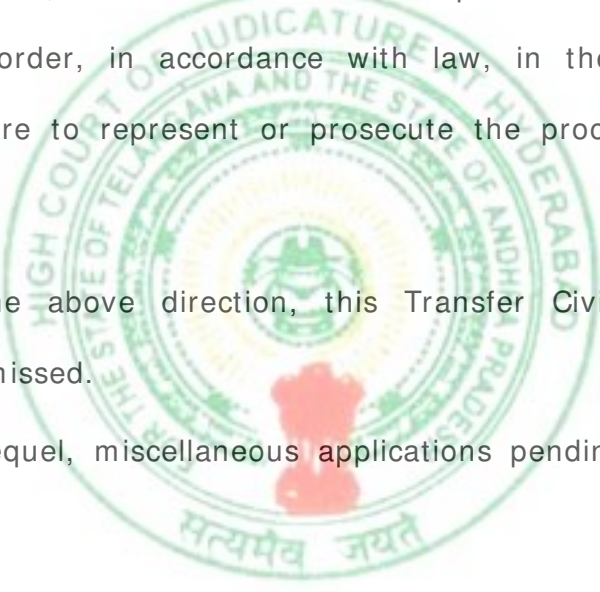
Admittedly, the petitioner herein/wife filed O.P.No.583 of 2013 and DVC No.111 of 2014 against the respondent herein, whereas the respondent herein/husband filed HMOP No.175 of 2015 before III Additional Senior Civil Judge at Kakinada.

No doubt, it is difficult for the petitioner being a lady to undertake journey on every date of adjournment, but her presence on every day of adjournment is not necessary as the proceedings in HMOP are governed by Civil Procedure and therefore, at best, she

required to appear only on few occasions i.e., for reconciliation and for recording her cross examination, but not on all days. On the ground of inconvenience, the present petition cannot be withdrawn and transferred to some other Court. Therefore, the learned III Additional Senior Civil Judge, Kakinada, is requested not to insist her personal appearance on every date of adjournment, except on the dates when her presence is required to record cross examination or for any other purpose, subject to payment of expenses by the respondent/husband for traveling, lodging and boarding in terms of Order 25 of CPC, as long as the counsel representing her, prosecuting the case before the Court. However, this direction shall not preclude the Court from passing any order, in accordance with law, in the event of her counsel's failure to represent or prosecute the proceedings on her behalf.

With the above direction, this Transfer Civil Miscellaneous Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.


M. SATYANARAYANA MURTHY, J

Dt: 09-11-2018

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