

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P. No.67 OF 2017

ORDER:

This Transfer C.M.P. is filed, under Section 24 of the Code of Civil Procedure, 1908 (for short 'Code'), by the petitioner - wife to withdraw F.C.O.P. No.279 of 2016 filed by the respondent - husband from the file of Judge, Family Court - cum - Additional District Judge, Guntur, Andhra Pradesh State, and transfer the same to the Judge, Family Court, Ranga Reddy District at L.B. Nagar, Telangana State.

2. The petitioner herein is the respondent in F.C.O.P. No.279 of 2016, while respondent is the petitioner. Respondent - husband filed the aforesaid FCOP under Section 13 (1) (ia) (ib) of the Hindu Marriage Act, 1955 (for short 'Act, 1955') to dissolve the marriage by granting decree of divorce. Both the petitioner and respondent are doctors and the petitioner herein is working as Medical Officer in Primary Health Centre, Dandu Mailaram, Ibrahimpatnam Mandal, Ranga Reddy District, and whereas respondent herein is a private Medical Practitioner at Guntur.

3. The only ground urged in this petition by the petitioner - wife is that she is working at Dandu Mailaram, Ibrahimpatnam Mandal, Ranga Reddy District, while her son, who is aged about 8 years, is attending school, it is difficult for her to appear before the Court at Guntur in connection with the aforesaid FCOP.

4. During course of hearing, learned counsel for the petitioner reiterated the same ground. Whereas, learned counsel for the respondent opposed the petition on the ground that with a view to harass the respondent, the petitioner filed the present petition under Section 24 of the Code to make the respondent to shuttle to Hyderabad from Guntur and, therefore, such *mala fide* petitions cannot be allowed, and requested to dismiss the petition.

5. Admittedly, the petitioner and respondent are doctors, but the petitioner is a Government Medical Officer, whereas respondent is a private medical practitioner at Guntur, and they are living at a distant places. The respondent - husband filed FCOP No.279 of 2016 before the Judge, Family Court - cum - Additional District Judge at Guntur, under Section 13 (1) (ia) (ib) of the Act, 1955 for dissolution of the marriage, based on cause of action that arose within the limits of Judge, Family Court at Guntur. The sole ground urged before this Court by the petitioner is that she is unable to undertake journey while discharging her duties as Medical Officer at Dandu Mailaram of Ibrahimpatnam Mandal, Ranga Reddy District, while looking after a minor son aged about 8 years. If it is the only inconvenience or difficulty being faced by the petitioner - wife, her attendance on all dates of adjournments can be dispensed with, while permitting her to appear before the Court at Guntur on the dates of reconciliation proceedings since such proceedings have to be conducted in camera in view of Section 11 of the Family Courts Act, 1984, and on the date when she is required to be

cross-examined by the learned counsel for respondent - husband in the above FCOP. That would be sufficient to avoid the inconvenience she complained of in the present petition.

6. The Hon'ble Supreme Court in **Krishna Veni Nagam v. Harish Nagam**¹ laid down certain guidelines for recording evidence in matrimonial cases. Those guidelines are modified by the Full Bench of the Apex Court in **Santhini v. Vijaya Venketesh**². However, laid down three guidelines and one of the guidelines is that after completion of reconciliation proceedings, in the event of failure, the parties may chose to examine by video conference and if they gave consent for such video conference, the Court can proceed to record evidence of witnesses by video conference, but till that stage, the petitioner has to appear before the Court only for limited purposes of reconciliation. Therefore, the personal appearance of the petitioner on the dates of adjournments except on the date of reconciliation and for recording her cross examination is dispensed with as long as she is represented by a counsel. However, this will not preclude the Judge, Family Court, from passing any order in accordance with law. However, the petitioner is at liberty to file appropriate application for recording her cross examination by appointing an advocate commissioner, even to avoid her appearance before the Court for recording cross examination.

7. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No order as to costs.

¹ (2017) 4 SCC 150

² (2018) 1 SCC 1

Consequently, the Miscellaneous Petitions, if any, pending in the present Transfer CMP, stand closed.

JUSTICE M. SATYANARAYANA MURTHY

October 25, 2018

Mgr

