

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr. CIVIL MISCELLENEANEOUS PETITION No.365 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of CPC, is filed to withdraw G.W.O.P.No.100 of 2017 on the file of Principal District Judge, Medak at Sangareddy and transfer the same to the Principle District Judge, Nizamabad, on the ground that the respondents are residents of Narayanakhed, which is a distance of 90 Km to the Court at Medak at Sangareddy, whereas the petitioners are residing at Nizamabad, which is at a distance of 200 km from the Court at Medak at Sangareddy, and they are facing lot of inconvenience to appear before the Court at Medak, Sangareddy on every day of adjournment.

The other ground urged before this Court is that the petitioners are facing life threat to appear before the Court at Medak, Sangareddy and that too the children are under the custody of these petitioners as on the date of filing the petition and the Court at Medak, Sangareddy, has no territorial jurisdiction to try the GWOP No.100 of 2017, in view of Section 9 of Guardian and Wards Act.

During hearing, learned counsel for the petitioners, while reiterating the contentions urged in the petition, requested this Court to dispense with their personal appearance on every date of adjournment or withdraw GWOP No.100 of 2017 on the file of the Principal District Judge, Medak at Sangareddy and transfer the same to the Principal District Judge, Nizamabad.

The first ground urged before this Court is that the petitioners are facing lot of inconvenience to undertake journey covering a distance of 200 km to appear before the Court, but that itself is not a ground as the

petitioners are not required to appear before the Court on every date of adjournment as the proceedings in GWOP are governed by Civil Procedure and therefore, at best, they required to appear only on few occasions, for recording their evidence and for production of minor, if any direction is given by the Court, and not on all days. On the ground of inconvenience, the present petition cannot be withdrawn as the respondents would face the same difficulty in the event of withdrawal and transfer the case from the Court at Medak, Sangareddy to Nizamabad.

The second ground urged before this Court is that the petitioners are facing life threat whenever they attend the Court at Medak at Sangareddy. But more curiously, the first petitioner is a retired ASI of Police and whereas the respondent No.1 is a retired conductor. In normal course of events, it is unusual to accept such contention of threat by a conductor to a retired ASI and it is not substantiated by any material. Therefore, on this ground, the petition cannot be withdrawn and transfer to Principal District Court, Nizamabad.

As seen from the contention of these petitioners, the minor ward is with the petitioners at Nizamabad. According to Section 9, the Petitions have to be filed before the Court where the minor is staying ordinarily. But, it is a disputed question of fact and such question cannot be decided while deciding an application under Section 24 of CPC. However, the Principal District Judge, Medak at Sangareddy, is directed to frame appropriate issue exercising power under Section 14 (2) CPC and try the same as preliminary issue within a period of two months from the date of receipt of a copy of this Order while dispensing the personal appearance of the petitioners on all dates of adjournments except on the dates for

recording their evidence and for production of minors as and when the Court directs.

With the above observation, this Transfer Civil Miscellaneous Petition is disposed of.

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

M. SATYANARAYANA MURTHY, J

Dt: 08-11-2018

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