

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P. No.677 OF 2018

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 O.P. No.140 of 2017 filed by the respondent - husband from the file of Senior Civil Judge, Peddapally and transfer the same to the Senior Civil Judge, Mancherial.

2. The petitioner herein is respondent in O.P. No.140 of 2017, while respondent is petitioner. Respondent - husband filed the aforesaid O.P. under Section 13 (1) (ia) of the Hindu Marriage Act, 1955 (for short 'Act, 1955') for dissolution of marriage by granting decree of divorce.

3. The present Transfer CMP is filed by the petitioner - wife for transfer of the aforesaid O.P., mainly on the ground that she being a lady, having a minor daughter not in a position to undertake journey from Mancherial to Peddapally and that D.V.C. No.7 of 2018 and C.C. No.53 of 2018 filed by her are pending before the Court at Mancherial.

4. During hearing, learned counsel for the petitioner reiterated the grounds mentioned in the petition.

5. The ground urged by the petitioner before this Court that it is difficult for her to appear before the Senior Civil Judge at Peddapally undertaking journey covering such distance. No doubt, it is a difficult task for a woman to appear before the Court at Peddapally on every date of adjournment, but it depends upon various factors. The petitioner is

aged 34 years and not at the advanced age, and at such age she can undertake journey either with or without assistance of any other male person depending upon her health. Even if the OP is withdrawn from the Court at Peddapally and transferred to the Court at Mancherial, the respondent - husband has to face the same difficulty on every date of adjournment. Therefore, on the ground of inconvenience to undertake journey, the OP cannot be withdrawn and transferred. However, to avoid any such inconvenience, I deem it appropriate to direct the Senior Civil Judge, Peddpallay to dispense with her personal appearance on every date of adjournment except on the date of reconciliation proceedings or on the date of recording her cross-examination by the Court since her appearance before the Court is required in view of Section 11 of the Family Courts Act, 1984.

i) The Hon'ble Supreme Court in **Krishna Veni Nagam v. Harish Nagam**¹ laid down certain guidelines for recording evidence in matrimonial cases. Later, those guidelines are modified by the Full Bench of the Apex Court in **Santhini v. Vijaya Venketesh**², permitting the parties to appear before the Court for reconciliation proceedings and in the event of failure of reconciliation they may opt for recording the evidence by Video Conference by giving consent for such recording. Therefore, for reconciliation, she has to appear before the Court, but subject to giving consent for recording the evidence of witnesses, their presence, even for petitioner's presence, can be dispensed with for

¹ (2017) 4 SCC 150

² (2018) 1 SCC 1

recording evidence subject to availability of video conference facility. Therefore, to avoid inconvenience to both the parties, I find that the distance is not a ground to withdraw the OP.

6. In any view of the matter, when the petitioner is living alone without any financial assistance, to attend before the Court at Peddpallay she is expected to incur certain expenses. Therefore, the respondent - husband is directed to pay travelling and other incidental expenses for her stay, food etc. whenever she attends the Court at Peddpallay in connection with the above O.P. as fixed by the Court, and the Court is also requested to dispense with personal appearance of the petitioner - wife on all the dates except on the date of reconciliation proceedings and for recording her cross-examination or on any other date whenever her personal appearance is required before the Court. However, this order will not preclude the Senior Civil Judge, Peddapally to pass appropriate order in accordance with law in the event of her counsel fails to represent the matter.

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

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

JUSTICE M. SATYANARAYANA MURTHY

October 26, 2018
Mgr