

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P. No.705 OF 2018

ORDER:

The present Transfer C.M.P., under Section 24 of the Code of Civil Procedure, 1908 (for short 'Code'), is filed by the petitioner - wife to withdraw H.M.O.P. No.83 of 2018, from the file of Principal Senior Civil Judge, Tirupati, and transfer the same to the Judge, Family Court, Nellore, SPSR Nellore District, Andhra Pradesh.

2. The aforesaid HMOP is filed by the respondent - husband for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. The present Transfer C.M.P. is filed by the petitioner - wife on the ground that the petitioner and respondent - husband are working as Software Engineers at Bangalore, and it is difficult for her to appear before the Court at Tirupati and that she is facing threat to her life and requested to withdraw the said HMOP pending on the file of Principal Senior Civil Judge, Tirupati and transfer the same to the Judge, Family Court, Nellore.

3. It is the contention of the petitioner from the beginning that the respondent is trying to harass her though she is ready and willing to join the society of respondent and intimated her willingness to joint with the respondent by reply notice, dated 12.07.2018, got issued through her advocate Sri A. Roja Reddy to the notice, dated 03.07.2018, got issued by the respondent through his counsel,

expressing her willingness to join the society of respondent on his intimation in writing as to the date and also the place where she has to join. But, despite giving intimation, the respondent filed the aforesaid HMOP to harass the petitioner allegedly.

4. No doubt, there is registered correspondence between the parties and the petitioner's readiness and willingness to join with the respondent restoring conjugal society with him in view of the reply got issued by her through her counsel. But, in the present petition the reason for withdrawal and transfer of the aforesaid HMOP is that it is difficult for her to appear before the Court at Tirupati due to life threat. But, this allegation is not substantiated by any material and she did not even disclose the date on which she was threatened and apprehension in her mind and she did not give any report to the police or to the Presiding Officer of the Court at Tirupati, and more curiously the petitioner received notice in the HMOP in the month of August, 2018 and the present petition is filed immediately in the month of October 2018 though the date of her appearance was on 28.09.2018, and nothing is brought on record to substantiate her contention that she is facing life threat to appear before the Court at Tirupati. In the absence of any material, it is difficult to exercise power under Section 24 of the Code to withdraw the aforesaid HMOP. However, that by itself is not a ground to exercise such power. In case, the petitioner is facing such threat, she may complain the same to the Presiding Officer of the Court at Tirupati or to the police having jurisdiction

where she receives such threat, and on receipt of any representation by the petitioner in writing, the learned Senior Civil Judge, Tirupati is requested to provide necessary protection to the petitioner subject to bearing expenses as fixed by the Court whenever she attends the Court in connection with the above HMOP. Such direction suffices to wipe out the apprehension in the mind of the petitioner about life threat etc. Hence, it is not the ground to withdraw the aforesaid HMOP and transfer the same to the Court at Nellore.

5. With the above observation, the present Transfer C.M.P. is disposed of. However, in the circumstances of the case, there shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the present Transfer C.M.P. stand closed.

M. SATYANARAYANA MURTHY, J

November 09, 2018

Mgr