

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.698 of 2018

ORDER

This petition under Section 24 of CPC is filed to withdraw O.P No.593 of 2018 pending on the file of III Additional Family Court-cum-XVI Additional District and Sessions Court, Ranga Reddy District at Malkajgiri, and transfer to the Court of Senior Civil Judge, Gudivada, Krishna District.

2. The respondent filed O.P.No.593 of 2018 under Section 9 of Hindu Marriage Act, 1955, for restitution of conjugal rights on various grounds. The contention of petitioner is that during pendency of said OP., it is difficult for her to appear before the Court at Malkajgiri on every date of adjournment while undertaking journey of more than 200 kms and she is also facing life threat from the hands of respondent as he warned her to see the end of her life. Her further contention is that criminal case, maintenance case and DVC are pending before the Courts at Gudivada and therefore, she requested to withdraw the said OP.

3. Learned counsel for petitioner Sri K. Ramakoteswara Rao, has reiterated the contentions raised in the petition, mainly on the ground of threat to life and requested to withdraw and transfer the said OP besides granting expenses for travelling etc.,

4. The petitioner is aged 36 years. Though she is a housewife, attending the Court at Malkajgiri on every date of adjournment is a

difficult task to her. In case, her appearance is dispensed with on every date of adjournment, except on the dates of reconciliation and recording her cross-examination, the inconvenience to undertake journey is no more available. Therefore, the Judge, III Additional Family Court-cum-XVI Additional District and Sessions Court, Ranga Reddy District at Malkajgiri, is requested not to insist her personal appearance on every date of adjournment, except on the date when reconciliation proceedings are taken up and recording her cross-examination or whenever her personal appearance is necessary as long as she is being represented by her counsel.

5. The second ground raised by petitioner is that she is facing life threat from the hands of the respondent. Though the said allegation is made, there is no material to substantiate the same. However, the Judge, III Additional Family Court-cum-XVI Additional District and Sessions Court, Ranga Reddy District at Malkajgiri, is requested to provide necessary police protection to petitioner on receipt of requisition from her whenever she attends the Court.

6. The third ground raised by petitioner is that she is a housewife and unable to meet the expenses for travelling and other incidental expenses. The respondent is directed to pay travelling and other incidental expenses including stay and food etc., whenever she attends the Court not only to her but also to the person, who accompanied her, as directed by the Judge, III Additional Family Court-cum-XVI Additional District and Sessions Court, Ranga Reddy District at Malkajgiri.

7. The other ground raised by petitioner is that criminal case, maintenance case and DVC are pending before the Courts at Gudivada. As O.P., is pending before the III Additional Family Court, the same cannot be transferred to the Senior Civil Judge's Court at Gudivada and at best, it can be transferred to the Family Court at Malkajgiri, but that would not serve any purpose since the criminal case pending before the Magistrate's Court cannot be tried along with the O.P., and therefore, pendency of criminal case etc., alone is not a ground to withdraw and transfer OP. At best, the Family Court is required to take into consideration the inconvenience being caused to both the parties. I find no ground to exercise power under Section 24 CPC.

8. With the above directions in paragraph Nos.4 to 6, the Transfer Civil Miscellaneous Petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

6th November, 2018

sj