

THE HONORABLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.708 of 2018

ORDER

This petition under Section 24 of C.P.C., is filed to withdraw O.P.No.132 of 2016 pending on the file of Senior Civil Judge, Huzurnagar, and transfer the same to the Court of Senior Civil Judge, Markapur.

2. Petitioner is the wife of respondent. Their marriage was performed on 27.11.2013 at Sri Lord Venkateswara Temple, Tirumalagiri, Krishna District and they lived happily for some time. Thereafter, due to disputes, the respondent filed O.P.No.132 of 2016 under Section 13(1)(ia)(ib) of Hindu Marriage Act, 1955, for dissolution of marriage by granting a decree of divorce.

3. The present petition is filed on three grounds. The first ground is that C.C.No.356 of 2016, registered for the offence under Section 498-A IPC and under Sections 3 and 4 of Dowry Prohibition Act, and M.C.No.22 of 2016, filed under Section 125 of Cr.P.C., are pending on the file of the Judicial First Class Magistrate, Giddalur, where the respondent is required to appear before the Court. The second ground is that the petitioner is unable to undertake journey to appear before the Court at Huzurnagar, which is at a distance of 120 kms, according to the learned counsel for petitioner. The third ground is that the petitioner is facing life threat whenever she attends the

Court at Huzurnagar. Therefore, to avoid such inconvenience, she requested to withdraw the said O.P. from the Court of Senior Civil Judge, Huzurnagar and transfer the same to the Court of Senior Civil Judge, Markapur.

4. During hearing, learned counsel for petitioner, Sri V. Venkateswarlu, has reiterated the above contentions and requested to pass appropriate orders.

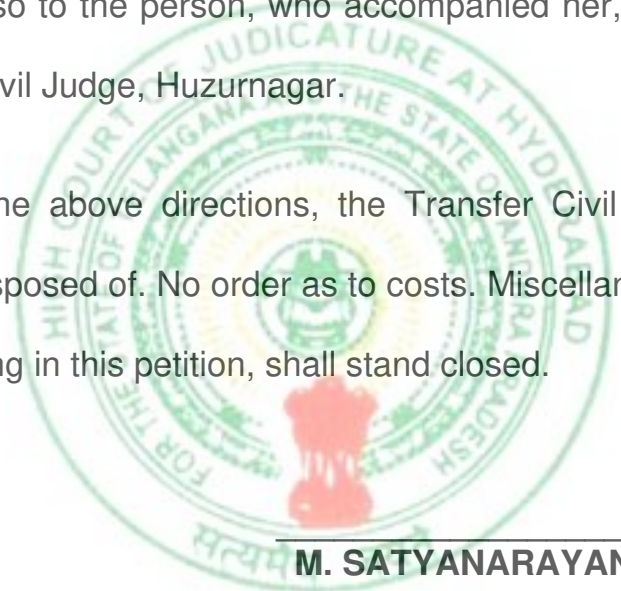
5. Admittedly, O.P.No.132 of 2016 filed for dissolution of marriage by granting a decree of divorce is pending on the file of the Senior Civil Judge, Huzurnagar, which is governed by the provisions of the A.P. Civil Rules of Practice and the Rules framed under Hindu Marriage Act, 1955. In the said petition, the petitioner is not required to appear on every date of adjournment like the matters pending before the Family Court. Thus, at best, she is required to appear before the Court on the date of reconciliation proceedings and her cross-examination. Therefore, on the ground of inconvenience to undertake journey, the said O.P., cannot be withdrawn and transferred and that too, the Senior Civil Judge's Court, Markapur, is at a distance of 50 kms from Gudemetla, where she is residing. Hence, I find that it is not the inconvenience of petitioner alone as the same inconvenience is likely to be faced by the respondent in the event of withdrawal and transfer of O.P., by exercising power under Section 24 of C.P.C.

6. The other ground raised before this Court is pendency of C.C.No.356 of 2016 and M.C.No.22 of 2016 on the file of the Judicial First Class Magistrate, Giddalur. In view of pendency of these two matters before the Magistrate, O.P., which is triable by the Senior Civil Judge, cannot be withdrawn and transferred as there is no Senior Civil Judge's Court within the local limits of Giddalur and that as both the cases are filed against the respondent, he has to appear before the two Courts. In the event of withdrawal and transfer, the respondent has to face more difficulty than the inconvenience being caused to petitioner. Therefore, it is difficult to exercise power under Section 24 CPC in the present set of circumstances.

7. The third ground urged before this Court is that the petitioner is facing life threat whenever she attends the Court at Huzurnagar. The said O.P., was filed on 22.12.2016 and she might have appeared at least once or twice. The complaint is only to the effect that she is facing life threat, but the date and details of such threat in the hands of the respondent or his relatives is not disclosed anywhere, and even if she is facing such threat, she would have complain either to the police or to the Presiding Officer of the Court against the respondent or his relatives about the threat. Therefore, in the absence of any material on record about the allegation of threat, it is difficult to accept the said contention. If, for any reason, the petitioner is facing such life threat, even in future, she is at liberty to

make a representation to the Senior Civil Judge, Huzurnagar, or complaint to the police having jurisdiction over the area where such threat is made. When such representation is made, the Senior Civil Judge, Huzurnagar, may provide necessary police protection to her whenever she attends the Court in connection with O.P.No.132 of 2016. Therefore, the alleged threat is not a ground to exercise power under Section 24 of C.P.C. However, as it is stated that the petitioner has no means, the respondent is directed to pay expenses for travelling and stay etc., whenever she attends the Court not only to her but also to the person, who accompanied her, as directed by the Senior Civil Judge, Huzurnagar.

8. With the above directions, 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

12th November, 2018

sj