

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TR.CIVIL MISCELLANEOUS PETITION NO.741 OF 2018

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed, to withdraw O.P.No.52 of 2017 pending on the file of the Senior Civil Judge, Gooty and transfer the same to the file of Judge, Family Court, Tirupati, Chittoor District.

The petitioner being the respondent in O.P. sought for withdrawal and transfer of OP on the following grounds:

- i) The petitioner being lady unable to undertake journey on every date of adjournment covering distance of 300 kms from Tirupati to Gooty and due to financial problem and that there are no direct busses.

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

When the petition filed under Section 13(i)(ia) of the Hindu Marriage Act and pending before the Senior Civil Judge, Gooty, the petitioner is not required to appear on every date of adjournment like proceedings under Family Courts' Act, except on the dates when reconciliation was taken up or on any other date for recording cross examination before the Court. Appearance on one or two days i.e. on the date of reconciliation or on the date of cross examination, the inconvenience expressed by the petitioner is not a ground to exercise power under Section 24 CPC to withdraw and transfer OP.

As discussed above, when the petitioner is not required to appear on every date of adjournment and that the petitioner was aged 22 years, it is not difficult task to attend the Court on one or two occasions. Therefore, on this ground OP cannot be withdrawn and transferred. No doubt, inconvenience of the wife is one of the consideration, but if the pending case is transferred from one Court to other, the respondent is bound to suffer the same inconvenience and apart from that, exercise of power in casual manner would amount to creation of jurisdiction on the Court where wife is residing or working. In view of the law laid down in **Ruchi Ram Khattar v. Sarah Narsain Shah**¹ convenience or inconvenience of any of

¹ AIR 1928 Lah 159

the parties alone is not a ground and the Court has to weigh the inconvenience caused to both parties. Therefore, there are no grounds to withdraw and transfer OP. However, the personal appearance of the petitioner on the dates of adjournments except on the date of reconciliation and to record her cross examination, is dispensed with as long as she being represented by counsel, this will not preclude the Court from passing any order in accordance with law.

The respondent being husband is bound to pay travelling and other incidental expenses as ordered by the Court to the petitioner and also to the person who accompanied her. The Senior Civil Judge is requested to issue necessary directions to the respondent/petitioner to pay travelling and other incidental expenses like stay, food etc. not only to the petitioner, but also to the person, who accompanied her, whenever she attends the Court in connection with O.P.

With the above observation, the Transfer Civil Miscellaneous Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

20.11.2018

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