

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TR.CIVIL MISCELLANEOUS PETITION NO.733 OF 2018

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw HM.O.P.No.60 of 2018 pending on the file of the Senior Civil Judge, Addanki, Prakasham District and transfer the same to the file of the Judge, Family Court, Secunderabad.

It is contended that the petitioner is staying with her parents at Hyderabad and not in a position to appear before the Senior Civil Judge, Addanki covering distance of 285 kms on every date of adjournment and that she has no means to meet the travelling expenses and that she is facing life threat in the hands of the respondent whenever she attends the Court in connection with O.P. at Addanki. Based on the above grounds, requested to withdraw O.P. No.60 of 2018 pending on the file of the Senior Civil Judge, Addanki, Prakasham District and transfer the same to the file of the Judge, Family Court, Secunderabad

During hearing, learned counsel for the petitioner reiterated the contentions raised in the petition and finally requested to dispense with the appearance of the petitioner before the Court, in case the Court is not inclined to withdraw and transfer the case.

Admittedly, O.P. is pending before the Senior Civil Judge, Addanki for restitution of conjugal rights on various grounds. The allegations made by the petitioner is that she is facing difficulty to appear before the Court i.e. life threat, but no material is produced to substantiate such contention. If the petitioner was subjected to such threat, when she attended the Court in connection with O.P., she would have lodged report with the police concerned or complained to the Judge. If really, the petitioner is facing

threat, necessary police protection can be provided whenever she attends the Court in connection with O.P. Therefore, I find that it is appropriate to direct the Senior Civil Judge, Addanki to provide necessary police protection whenever, the petitioner appears before the Court in connection with O.P. only on the application made by the petitioner to meet the ends of justice.

When the petition under Section 9 of the Hindu Marriage Act and pending before the Senior Civil Judge, Addanki, the petitioner is not required to appear on every date of adjournment like proceedings under Family Courts' Act, except on the dates when reconciliation proceedings are 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 recording cross examination, the inconvenience expressed by the petitioner is not a ground to exercise power under Section 24 CPC to withdraw and transfer OP.

The other ground urged before this Court by the petitioner is that she is unable to undertake journey covering distance of 285 kms from Secunderabad to Addanki. As discussed above, when the petitioner is not required to appear on every date of adjournment and that the petitioner aged 30 years, it is not difficult task to attend the Court on one or two occasions. 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 below from passing any order in accordance with law.

The respondent being husband, he 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, Addanki is requested to issue necessary directions to the respondent 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

16.11.2018

kvrn

