

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 739 OF 2018

ORDER:

This transfer civil miscellaneous petition under Section 24 of C.P.C. is filed by the petitioner-wife to withdraw D.O.P.No. 469 of 2018 pending on the file of the Court of learned Principal District Judge, Krishna at Machilipatnam (for short, 'the Court below'), and transfer the same to the Court of learned Family Judge, Vijayawada, on the grounds that she is unable to undertake journey covering distance of 67 kilometers along with her minor children and that she is unable to meet the expenses of her traveling, stay and food.

2. The respondent-husband filed the above D.O.P. before the Court below under Sections 10 (1) (ix) and (x) of the Divorce Act, 1869 (for short, 'the Act'), for dissolution of the marriage between him and the petitioner.

3. In the case of any petition under this Act, jurisdiction is exclusively conferred on District Judge. Section 3 (2) of the Act defines District Judge and according to it, District Judge means a Judge of a Principal Civil Court of original jurisdiction whoever designated. Therefore, Principal District Judge alone is vested with the power to inquire or try cases under the Act and petitions pending before Principal District Judge can be withdrawn and transferred to any other Principal District Judge of other Districts but not to additional District Courts. On this ground alone, D.O.P.No. 469 of 2018 cannot be withdrawn and transferred to Judge, Family Court, Vijayawada, who is not a District Judge of Principal Civil Court as defined under Section 3 (2) of the Act. However, considering the inability pleaded by the petitioner, the respondent-husband is directed to pay expenses of traveling, food and stay to the petitioner and to the person who

accompanies her whenever the latter attends the Court below in connection with the above D.O.P.

4. With the above direction, the transfer civil miscellaneous petitions is disposed of. Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 20-11-2018.
JSK

M.SATYANARAYANA MURTHY, J.

