

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CIVIL MISCELLANEOUS PETITION No.771 OF 2017

ORDER:

This petition, under Section 24 of the Code of Civil Procedure, 1908, is filed to withdraw O.P.No.1279 of 2017, pending on the file of the learned Judge, Family Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the file of the learned District Judge, Machilipatnam, Krishna District.

Petitioner herein is the wife of the respondent herein. Respondent herein filed O.P.No.1279 of 2017, under Section 32 of the Divorce Act, 1869, seeking restitution of conjugal rights and the same is pending on the file of the learned Judge, Family Court at L.B.Nagar. The respondent herein filed Maintenance Case, under Section 125 Cr.P.C., which is not yet numbered, claiming maintenance on the ground that she has no source of income to maintain herself. The only contention raised before this Court is that she has no means to maintain herself and, therefore, she is unable to undertake journey, covering distance of more than 300 Kms, to appear before the learned District Judge, Machilipatnam, Krishna District on every date of adjournment. However, that ground is not sufficient to withdraw and transfer O.P.No.1279 of 2017 pending on the file of the learned Judge, Family Court, Ranga Reddy District at L.B.Nagar.

At the hearing, it is contended by the learned counsel for the petitioner that the Maintenance Case, allegedly filed under Section 125 Cr.P.C., is not yet numbered and as on today no Maintenance Case is pending on the file of the learned Magistrate of First Class, Machilipatnam under Section 125 Cr.P.C. Therefore, the alleged pendency of Maintenance Case is not a ground to exercise power under Section 24 CPC. The other contention raised by the learned counsel is that the petitioner is staying with her parents, who are labourers, at Machilipatnam, and she is not in a position to meet the travelling expenses and other incidental expenses to attend the Court at L.B.Nagar. No doubt, when the petitioner-wife, who is a housewife, is living separately, it is difficult to maintain herself and to undertake travelling, without male assistance, to appear before the Court below, however, that itself is not a ground to withdraw and transfer O.P.No.1279 of 2017 pending on the file of the learned Judge, Family Court, Ranga Reddy District at L.B.Nagar. However, taking into consideration the inability of the petitioner to undertake journey and to meet the travelling expenses, I deem it appropriate to direct the respondent to pay the travelling expenses and other incidental expenses to the petitioner whenever she attends the Court in connection with the above O.P., while directing the learned Judge, Family Court not to insist the petitioner's appearance on every date of adjournment, except on the dates where her personal

appearance is required or on the date when the Court directs her to appear before the Court in connection with above O.P. In case it is difficult for the petitioner to appear before the Court on any date, even for recording her evidence before the Court, she may apply for appointment of an Advocate-Commissioner to record her evidence subject to bearing expenses by the respondent herein.

With the above direction, this petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

18th January, 2018.
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M.SATYANARAYANA MURTHY,J

