

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr. CIVIL MISCELLENEOUS PETITION No.856 of 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of CPC, is filed by the petitioner/husband to withdraw OP No.146 of 2015 pending on the file of Senior Civil Judge, Kovuru and transfer to Judge, Family Court at Hyderabad or Vijayawada.

During hearing, learned counsel for the petitioner contends that the petitioner is not in a position to bear both traveling and other incidental expenses to appear before the Senior Civil Judge, Kovuru, on every date of adjournment, covering distance of 400 Km as he is a private employee at Hyderabad and getting meager amount towards salary. Moreover, the respondent/wife is suffering with 'Psychopathic Disorder' and she is taking continuous treatment at Hyderabad and now the respondent is residing at Vidhyadharapuram, Vijayawada and the prayed to withdraw and transfer the case to the Judge, Family Court at Hyderabad or Vijayawada, where the respondent is staying.

As per the admission of the learned counsel for the petitioner, the respondent is suffering from 'Psychopathic Disorder'. She being a lady suffering from 'Psychopathic Disorder, is not supposed to undertake journey covering the distance of 400 km from Tadimalla Village, Nidadavole Mandal to Hyderabad. As per the cause title in HMOP No.146 of 2015, the respondent is resident of Tadimalla Village, Nidadavole Mandal, but not at Vijayawada. In the event of withdrawal and transfer of the matter, it is highly difficult for the respondent to appear before the Judge, Family Court at Vijayawada or Hyderabad.

Convenience or inconvenience of the parties is one of the consideration to exercise jurisdiction under Section 24 of CPC. The Apex Court in *Kulwinder Kaur @ Kulwinder Gurcharan Singh v Kandi Friends Education Trust and others*¹, laid down the following guidelines for withdrawal and transfer of the cases filed under Section 24 of CPC, which are as follows:

(1) Balance of convenience or inconvenience to the plaintiff or the defendant or witnesses;

(2) convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit.

(3) Issues raised by the parties.

(4) reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending.

(5) important questions of law involved or a considerable section of public interested in the litigation.

(6) interest of justice demanding for transfer of case etc.,”

One of the condition is balance of convenience or inconvenience to the plaintiff or the defendant or the witnesses and the convenience or inconvenience of a particular place of trial having regard to the nature of the evidence on the points involved in the suit.

According to the admission of the petitioner, the respondent is suffering from ‘Psychopathic Disorder’, but attending treatment at Hyderabad. In case, the OP is withdrawn and transferred to the Court at Hyderabad, certainly the respondent being a patient has to face serious inconvenience to undertake journey from Kovuru to Hyderabad covering distance of 400 Km.

¹ 2008 (3) SCC page 659

The Apex Court in “*Santhini v. Vijaya Venketesh*”², while overruling a part of the Judgment in *Krishna Veni Nagam v. Harish Nagam*³ held that while deciding with a petition filed under Section 24 of CPC, the judgments of any Court under Section 24 CPC are not precedents and each case has to be decided on its own merits.

In view of the law declared by the Apex Court, I am not inclined to exercise discretionary jurisdiction under Section 24 of CPC and therefore, this petition is liable to be dismissed.

Accordingly, this Transfer Civil Miscellaneous Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Dt: 08-02-2018

Eha...



² (2018) 1 SCC 1

³ (2017) 4 SCC 150

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr. CIVIL MISCELLENEIOUS PETITION No.856 of 2017

Dt. 08.02.2018

eha

