

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

TRANSFER C.M.P.NO.15 OF 2022

Between:

P. Suraj, S/o. Late L. Pool Singh, Aged about 44 years, Occ: Attender, R/o.
H.No.7-1-632/130/A, Babu Nagar, S.R. Nagar, Hyderabad

...PETITIONER

AND

1. P. Padmaja, W/o. P. Suraj, Aged about 42 years, Occ: House hold, R/o
H.No.8-2-293/79, Sri Venkateshwara Nagar, Road No. 14, Banjara Hills,
Hyderabad
2. Tejeswari Lunavath, D/o. P. Suraj, Aged 22 years, Occ Private Job, R/o.
H.No.8-2-293/79, Sri Venkateshwara Nagar, Road No. 14, Banjara Hills,
Hyderabad

...RESPONDENTS 1 & 2

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to withdraw and transfer M.C.No.435 of 2016 pending on the file of the Hon'ble Additional Metropolitan Sessions Judge, for JHCBBC-cum-Additional Family Court -cum-XXIII ACJ-cum-IX AMSJ Court at Nampally, Hyderabad, for a joint enquiry /trial along with D.V.C.No.52 of 2017 pending on the file of the Hon'ble III Metropolitan Magistrate at Manoranjan complex, Hyderabad.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in M.C.No.435 of 2016 pending on the file of the Hon'ble Additional Metropolitan Sessions Judge, for JHCBBC-cum-Additional Family Court -cum-XXIII ACJ-cum-IX AMSJ Court at Nampally, Hyderabad, pending disposal of the main Tr.C.M.P.

This Petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Syed Osman, Advocate for the Petitioner and of the Respondents not appeared in person or by Advocate.

The Court made the following: ORDER

HONOURABLE SRI JUSTICE N. TUKARAMJI

TRANSFER C.M.P.NO.15 of 2022

ORDER:

This petition is filed with a prayer to transfer M.C.No.435 of 2016 on the file of the Additional Metropolitan Sessions Judge for JHCBBC-cum-Additional Family Court-cum-XXIII ACJ-cum-IX AMSJ Court at Nampally, Hyderabad for joint enquiry/trial with D.V.C.No.52 of 2017 on the file of the III Metropolitan Magistrate at Manoranjan Complex, Hyderabad.

2. The petitioner submits that his wife and daughter filed the petition M.C.No.435 of 2016, seeking maintenance under Section 125 of Criminal Procedure Code (for short 'Cr.P.C.') alleging neglect on his part. In addition, the first respondent/wife filed complaint before the Protection Officer under the Protection of Women from Domestic Violence Act, 2005 (for short 'the PWDV Act') and the same is numbered as DVC No.52 of 2015 pending on the file of on the file of the III Metropolitan Magistrate at Manoranjan Complex, Hyderabad. In M.C.No.435 of 2016 interim maintenance was awarded at

Rs.8,000/- per month. Whereas the respondents are also claiming maintenance at Rs.40,000/- per month in the DVC No. 52 of 2015. As he is working as attender in Hindu College for Women, Sanathnagar, Hyderabad with monthly salary of Rs.7,029/-. Thus he would not be in a position to pay maintenance in two different petitions, as it is abuse of the process and causing serious hardship in attending the Courts on different dates. Therefore, as the maintenance petition under Section 125 Cr.P.C. is triable by the Judicial Magistrate of First Class, the III Metropolitan Magistrate can deal with such petition, hence sought for transfer of the petition, as prayed for.

3. The service of notice on the respondent is deemed proper.
4. Perused the material on record. The petitioner is seeking transfer of M.C.No.52 of 2015 on the file of the Additional Family Court to the file of Designated Court under PWDV Act, as that Court is being presided over by the Magistrate of First Class.
5. Section 7 of Family Courts Act, 1984 (hereafter 'the Act') specifies that the jurisdiction exercisable by any other Court in

respect of the proceedings of the categories covered thereunder. Sub-section (2)(a) of Section 7 of the Act, the maintenance cases and Chapter IX is to be dealt with by the Family Court of the jurisdiction. The Section 8 of the Act delineates exclusive of jurisdiction. The sub-section (1)(b) of Section 8 of the Act is specifying that no Magistrate shall, have or exercise any jurisdiction or power Under Chapter IX of the Code of Civil Procedure. Thus, after establishment of the Family Court would statutorily oust the jurisdiction of the Judicial Magistrate of First Class in respect of the petitions under Section 125 Cr.P.C. for adjudication and vest with the family Court.

6. Thus, the prayer for transfer of maintenance petition filed under Section 125 of the Code of Criminal Procedure to the Court of the III Metropolitan Magistrate at Manoranjan Complex, Hyderabad fails.

7. In the result, the transfer Civil Miscellaneous Petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending if any in the
Civil Revision Petition, shall stand closed.

//TRUE COPY//

SD/- T. JAYASREE
ASISSTANT REGISTRAR


SECTION OFFICER

To,

1. The Additional Metropolitan Sessions Judge for JHBBC -cum- Additional Family Court -cum- XXIII ACJ -cum- IX AMSJ Court at Nampally, Hyderabad.
2. The III Metropolitan Magistrate at Manoranjan Complex, Hyderabad.
3. One CC to Sri Syed Osman, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

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HIGH COURT

DATED: 08/03/2022



ORDER

TR.CMP.No.15 of 2022

**DISMISSING THE TR.CMP.
WITHOUT COSTS.**

File
04/04