

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

**MONDAY ,THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

TR.C.M.P.NO: 432 OF 2022

Between:

Mr. Thamalapakula Gnaneshwari , Anitha, W/o. Thamalapakula Rambabu, D/o. Shiva Tharakeshwara Rao, aged 25 years, occupation. Software engineer in Cap Gemini, R/o. H.No.2-1-22/30/9, Krishnaveni Nagar Colony, Pragathinagar Road, Shamshiguda, Kukatpally, Medchal - Malkajgiri District

...PETITIONER

AND

Mr. Thamalapakula Rambabu, S/o. Narsaiah, Aged . 30 years, Occupation. Processing Engineer in Reddys Lab, R/o. H.No.2-77, Komarabanda Village, Kodad Mandal, Suryapet District.

...RESPONDENT

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 transfer the O.P.No.43 of 2022 from the Court of Senior Civil Judge at Huzurnagar to the Family Court, Medchal-Malkajgiri District, at Kukatpally.

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 O.P.No.43 of 2022 before the Court of Senior Civil Judge at Huzurnagar, pending the above Transfer C.M.P.

IA NO: 2 OF 2023

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 Suspend the operation of the order passed by this Hon'ble court in Transfer CMP No. 432 of 2022, dated 15.06.2023

IA NO: 3 OF 2023

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 grant stay of all further proceedings in O.P. No. 43/2022 on the file of Senior Civil

Judge, Huzurnagar, in the interest of justice, as otherwise Petitioner would be put to irreparable loss and injury.

Counsel for the Petitioner : SRI. J.PRADEEP KIRAN

Counsel for the Respondent : SRI VELMULA BHARATH KUMAR

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

TR.C.M.P.NO.432 of 2022

ORDER :

This is a petition filed by the petitioner/wife against the respondent/husband under Section 24 of C.P.C. with a prayer to transfer O.P.No.43 of 2022 filed by the respondent before the Senior Civil Judge, Huzurnagar to Family Court, Medchal, Malkajgiri.

2. As could be seen from the averments made in the affidavit filed in support of the petition, even as per the contentions raised by the respondent, the petitioner is wife of the respondent. They have got one son and in view of the disputes between the couple, the respondent deserted the petitioner herein and subsequently filed OP.No.43 of 2022 before the learned Senior Civil Judge, Huzurnagar under Section 13(1) (ia) of Hindu Marriage Act seeking divorce. The petitioner while filing the above said Transfer C.M.P. had submitted that she is a resident of Shamshiguda, Kukatpally, Medchal Malkajgiri District. If she has to attend the Court of Senior Civil Judge, Huzurnagar for contesting the divorce petition, she needs to travel more than

6 hours. She had no funds and she cannot afford the journey and sought for transfer of the petition.

3. The respondent opposed the petition on various grounds. This Court after hearing both parties dismissed the petition by order dated 15-06-2023, however, with an observation that the petitioner need not attend the Court at Senior Civil Judge, Huzurnagar for all the dates of hearing except when her presence is specifically required and with a direction to the respondent/husband to pay the necessary charges whenever the petitioner and her attendant if any attend the Court at Huzurnagar.

4. Subsequently, the petitioner filed Review Petition vide IA.No.1 of 2023 under Section 114 C.P.C. r/w Order 47 Rule 1 C.P.C. seeking review of the order on the ground that while arguing the case, the learned counsel for the respondent also reported no objection for transfer of the case but the same was escaped the attention of the Court while disposing the Tr.C.M.P.No.432 of 2022 and also on the ground that there are other matters including a DVC case filed by the petitioner pending before the Court, Medchal, Malkajgiri and there may not be any trouble for the respondent even if the divorce case is transferred to Family Court at Malkajgiri.

5. The above said Review Petition has been allowed after enquiring whether the respondent has got any objection for transfer of the divorce petition and as he reported no objection. Considering the fact that there is an apparent error in the earlier order, the review petition has been allowed.

6. Heard both parties.

7. Now the point for consideration is :

Whether the request of the petitioner to transfer OP.No.43 of 2022 can be transferred from Huzurnagar, Medchal Malkajgiri at Kukatpally?

8. As could be seen from the material placed before the Court, there is no dispute about the relationship between the parties. It also appears that the petitioner herein filed criminal proceedings against the respondent vide CC.No.6243 of 2022 for the offence under Section 498(A) of Indian Penal Code and a case under the provisions of Domestic Violence Act vide DVC No.12 of 2022 and both the cases are pending on the file of Metropolitan Magistrate, Kukatpally. The respondent has filed OP.No.43 of 2022 under Section 13(1)(ia) of Hindu Marriage Act and sought for divorce. As already stated in the previous paragraphs, the petitioner has claimed that she cannot afford the journey which

requires more than 6 hours to attend the Court at Huzurnagar apart from bearing expenditure that would be incurred. In the previous order, the petitioner was allowed not to attend the Court for all the hearings. However, in view of the specific representations made by the learned counsel for the respondent, on instructions from the client and as the other criminal proceedings are pending at the Courts of Kukatpally, for the sake of convenience of both parties and also to afford the charges for expedite disposal of the cases, the request of the petitioner can be considered.

9. In the result, the Tr.C.M.P.No.432 of 2022 is allowed. The O.P.No.43 of 2022 is transferred from the Court of Senior Civil Judge, Huzurnagar to the Family Court, Medchal Malkajgiri at Kukatpally. The learned Senior Civil Judge, Huzurnagar is directed to transfer the entire record in O.P.No.43 of 2022 by duly indexing the same within two (2) weeks from the date of receiving the order under due intimation to both parties.

Consequently, Miscellaneous applications if any, are closed.
No costs.

**SD/- P. GOWRI SHANKAR
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge at Huzurnagar
 2. The Judge, Family Court, Medchal-Malkajgiri District, at Kukatpally
 3. One CC to Sri J.Pradeep Kiran, Advocate (OPUC)
 4. One CC to Sri Velmula Bharath Kumar, Advocate (OPUC)
 5. Two CD Copies
- Ks/JAK

HIGH COURT

DATED:06/11/2023



ORDER

TR.C.M.P.No.432 of 2022

**Allowing the Tr.C.M.P
Without costs.**

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REMO
06/2/2024