IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

TRANS. CIVIL MISC.PETITION NO: 12 OF 2025

Between:

Aarthi Bhattad, W/o. Manish Bhattad, aged about 38 years, House Wife, R/o. D.No.24-3-16, Flat No.C-1, Sreemakurthy Apartments, Temple Street, Near Vikas Junior College, Kakinada - 533001, East Godavari District.

...Petitioner/Respondent

AND

Manish Kumar Bhattad, S/o. Domodar Bhattad, Aged about 40 years, Business, R/o. D. No 59-8-1/1, Bhashyam School Road, Gayatri Nagar, Vijayawada-520008, Krishna District.

...Respondent/Petitioner

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 order withdrawal of the FCOP (GWOP) No. 1113 of 2024 from the Hon'ble Court of XIV Additional District Judge – Cum - Family Court Judge, Vijayawada, Krishna District to the file of the Family Court Judge, Kakinada, East Godavari District for trial and dispose of the same in accordance with law.

IA NO: 1 OF 2025

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 order stay of all further proceedings in FCOP (GWOP) No. 1113 of 2024 from the Hon'ble Court of XIV Additional District Judge - cum - Family Court Judge, Vijayawada, Krishna District, pending disposal of the Transfer Civil Miscellaneous Petition.

Counsel for the Petitioner: Sri Y.S. Vijaya Pratap

Counsel for the Respondent: Smt. Chukka Harika

The Court made the following:

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.12 of 2025

ORDER:

The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking to withdraw F.C.O.P.(GWOP)No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District and transfer the same to the Family Court-Cum-Additional District Court, Kakinada, East Godavari District.

2. The case of the petitioner in brief is as follows:

I. The petitioner is the legally wedded wife of the respondent and their marriage has been performed at Vijayawada on 30.05.2010 as per Hindu rites and customs. During their wedlock, the petitioner and the respondent were blessed with two children aged about 12 years and 7 years respectively. In view of the matrimonial disputes between both the parties, the petitioner/wife along with her children are staying at her parents' house at Kakinada, East Godavari District. The petitioner pleaded that she filed a Maintenance Case *vide* M.C.No.161 of 2024, on the file of the III Additional Judicial Magistrate of First Class, Kakinada and a Domestic Violence Case on the file of the Judicial Magistrate of 1st Class, Kakinada, East Godavari District and the same

are pending for adjudication. The petitioner contend that to cau[illegible] inconvenience to her, the respondent/husband filed F.C.O.P.No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District, under Sections 7 to 10 of the Guardians & Wards Act, seeking custody of the children.

II. Learned counsel for the petitioner further contended that the petitioner being a woman having two children aged about 12 years and 7 years respectively, depending upon her parents, it is very difficult for her to travel at a distance of more than 200Kms from Kakinada to Vijayawada without any male support and that she was constrained to file the present petition against the respondent/husband seeking to withdraw F.C.O.P.(GWOP)No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District and transfer the same to the Family Court-Cum-Additional District Court, Kakinada, East Godavari District.

3. The respondent has filed counter-affidavit by denying the allegations mentioned in the transfer petition filed by the petitioner/wife. The respondent/husband contends that there are no merits in the application filed by the petitioner/wife and requested to dismiss the present transfer civil miscellaneous petition.

4. Heard Sri Y.S.Vijaya Pratap, learned counsel for the petitioner and Ms.Chukka Harika, learned counsel for the respondent. Perused the material available on record.

5. As seen from the counter affidavit filed by the respondent/husband, it is contended by the respondent that there is no truth in the allegations mentioned by the petitioner/wife in her affidavit and on the other hand the respondent/husband had also laid some allegations against the petitioner/wife in the counter affidavit filed by him. As the present transfer civil miscellaneous petition is filed by the petitioner under Section 24 of the Code of Civil Procedure, 1908 seeking to withdraw F.C.O.P.(GWOP)No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District and transfer the same to the Family Court-Cum-Additional District Court, Kakinada, East Godavari District. But, at this stage, this Court is not inclined to look into the merits and demerits of the case, which is pending before the Court below.

6. The material on record *prima facie* goes to show that the petitioner/wife had instituted a Maintenance Case *vide* M.C.No.161 of 2024 and a Domestic Violence Case before competent Courts at Kakinada and the respondent/husband is also attending the Court proceedings in the aforesaid cases. The respondent/husband has filed F.C.O.P.No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District, under Sections 7 to 10 of the Guardians & Wards Act, seeking custody of the children.

7. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.Saravana Karthik Sha**[1] held as follows:

> *"9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, whenever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."*

8. On considering the submissions made by the learned counsel for the petitioner and in view of the ratio laid down in the aforesaid case law that in matrimonial proceedings, the convenience of the wife has to be considered than that of the inconvenience of the husband. Therefore, this Court is of the considered view that there are grounds to consider the request of the petitioner/wife to withdraw F.C.O.P.(GWOP)No.1113 of 2024, on the file of the XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District and transfer the same to the III Additional District Judge Court, Kakinada, East Godavari District.

09. In the result, the present petition is allowed and F.C.O.P.(GWOP)No.1113 of 2024, on the file of the XIV Additional District

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[1] 2022 LiveLaw (SC) 627

Judge-Cum-Family Court, Vijayawada, Krishna District, is hereby withdrawn and transferred to the III Additional District Judge Court, Kakinada, East Godavari District. The XIV Additional District Judge-Cum-Family Court, Vijayawada, Krishna District shall transmit the case record in F.C.O.P.(GWOP)No.1113 of 2024 to the III Additional District Judge Court, Kakinada, East Godavari District duly indexed as expeditiously as possible preferably within a period of two (02) weeks from the date of receipt of a copy of the order. Both the parties are directed to appear before the III Additional District Judge Court, East Godavari District on 07.05.2025 at 10.30 a.m. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any pending and the Interim order granted earlier, if any, shall stand closed.

Sd/- N NAGAMMA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XIV Additional District Judge - Cum - Family Court Judge: Vijayawada, Krishna District.
2. The III Additional District Judge, Kakinada, East Godavari District.
3. The III Additional Judicial First Class Magistrate, Kakinada, East Godavari District.
4. Aarthi Bhattad, W/o. Manish Bhattad, aged about 38 years, House Wife, R/o. D.No.24-3-16, Flat No C-1, Sreemakurthy Apartments, Temple Street, Near Vikas Junior College, Kakinada - 533001, East Godavari District.
5. Manish Kumar Bhattad, S/o. Domodar Bhattad, Aged about 40 years, Business, R/o. D. No 59-8-1/1, Bhashyam School Road, Gayatri Nagar, Vijayawada-520008, Krishna District.
6. One CC to Sri Y.S.Vijaya Pratap, Advocate [OPUC]
7. One CC to Smt. Chukka Harika, Advocate [OPUC]
8. **Three CD Copies**

HIGH COURT

DATED:21/03/2025

ORDER

TRCMP.No.12 of 2025



ALLOWING THE TRCMP