IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

HONOURABLE SRI JUSTICE V.GOPALA KRISHNA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.397 of 2024

Between:

Polipongu Vijaya, W/o. Polipongu Lokanadham, Aged about 50 years, R/o. D.No.18-7-20, Aarupamula Road, Khuddus Nagar, Gandhinagar, Vijayawada, NTR District, Andhra Pradesh -520003.

...Petitioner

AND

1. Polipongu Lokanadham, S/o. Nagaiah, R/o. D.No.23-1-39/1, Sri Durga Nagar, MR Palli, Opposite ZP High School, Tirupati City District, Andhra Pradesh.
2. Ambedkar, S/o. Not Known to the Petitioner, D.No.18-7-26, C/o. Vanaja Kumari -House, Khuddur Nagar, Near Baptist Church, Vijayawada Urban, Vijayawada - 520003. A.P

(Respondent No.2 Not Necessary Party)

...Respondents

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 FCOP No.101 of 2024 on the file of the family Court

Cum V Additional District Judge at Tirupathi to Family Court Judge, Vijayawada, Krishna District.

IA NO: 2 OF 2024

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 FCOP No.101 of 2024 on the file of the Family Court Cum V Additional District Judge, at Tirupathi to Family Court Judge, Vijayawada, pending disposal of the above Tr.C.M.P.

Counsel for the Petitioner : Sri Jada Sravan Kumar

Counsel for the Respondents: Sri P Jagadish Chandra Prasad

The Court made the following:

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.397 of 2024

ORDER:

1. The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, to the Judge, Family Court at Vijayawada, for trial.

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

I. The petitioner is the legally wedded wife of the respondent and the marriage of the petitioner with the respondent was performed on 29.06.1990 and they led a happy marital life for some time. During their wed-lock period, they blessed with two (2) female children. In view of the matrimonial disputes between both the spouses, the petitioner/wife is staying separately along with her children at Vijayawada. The petitioner/wife further pleaded that to cause unnecessary inconvenience to her, the respondent No.1/husband filed F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, under Section 13(I)(i) (ia)(ib) of Hindu Marriage Act, 1955, seeking dissolution of the marriage.

II. Learned counsel for the petitioner further contended that the petitioner being a woman staying separately along with her children at Vijayawada, it is very difficult for her to travel at a distance for more than 400 Kms from

Vijayawada to Tirupati to attend the case proceedings on each anc every adjournment before the said Court without any male support, and that she was constrained to file the present petition seeking transfer of F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, to the Judge, Family Court at Vijayawada.

3. Heard learned counsel for the petitioner and learned counsel for the respondents.

4. Perused the material available on record.

5. Counter-affidavit has been not filed by the respondents.

6. Learned counsel for the respondents would contend that the respondent No.1/husband herein is a senior citizen aged about 64 years, the petitioner/wife herein deserted the respondent No.1/husband at about 20 years back and the respondent No.1/husband herein has been suffering with partial paralysis and he is senior citizen aged about 64 years. He further represented that it is not a fit case to allow the present transfer petition.

7. The Apex Court in a case of ***Geeta Heera Vs Harish Chander Heera***[1], held by considering the fact that "if a wife does not have sufficient funds to visit the place where the divorce petition is filed by her husband, then the transfer petition filed by the wife may be allowed."

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[1] (2000) 10 SCC 304

8. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.Saravana Karthik Sha**[2] 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, wherever 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."*

9. On considering the submissions made by the learned counsel appearing for both sides and in view of the ratio laid down in the aforesaid case laws that in matrimonial proceedings, the convenience of the wife has to be taken into consideration than that of the inconvenience of the husband. Therefore, I am of the considered view that there are grounds to consider the request made by the petitioner/wife to transfer the F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, to the Family Court-cum-V Additional District Judge, at Vijayawada. On considering the submissions made by the learned counsel for respondents, since the

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[2] **2022 LiveLaw (SC) 627**

respondent No.1/husband is a senior citizen aged about 64 years and he has been suffering with partial paralysis, therefore, the personal appearance of the respondent No.1/husband herein i.e., the petitioner in F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, has been dispensed with until disposal of the said case before the transferee Court i.e., the Family Court-cum-V Additional District Judge, Vijayawada, "except on the days when his presence is required as per law".

10. In the result, the Transfer Civil Miscellaneous Petition is **allowed** and F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, is hereby withdrawn and transferred to the Family Court-cum-V Additional District Judge, Vijayawada. The learned Judge, Family Court-cum-V Additional District Judge, Tirupati, shall transmit the case record in F.C.O.P.No.101 of 2024 to the Family Court Judge-cum-V Additional District Judge, at Vijayawada, duly indexed as expeditiously as possible preferably within a period of two (02) weeks from the date of receipt of a copy of this order. Furthermore, the personal attendance of the respondent herein i.e., the petitioner in F.C.O.P.No.101 of 2024 on the file of the Family Court-cum-V Additional District Judge, Tirupati, has been dispensed with until disposal of the said case, before the transferee Court i.e., the Family Court-cum-V Additional District Judge, Vijayawada, "except on the days when his presence is required as per law". Both the parties are directed to appear

before the Family Court-cum-V Additional District Judge, Vijayawada, on 06.02.2025, at 10.30 a.m. There shall be no order as to costs.

11. Learned counsel for the respondents represented that some time limit may be fixed to the learned trial Judge to dispose of the said case, because the respondent No.1/husband herein is a senior citizen aged about 64 years and he has been suffering with some ailments.

12. Considering the representation made by the learned counsel for the respondents that, the learned Judge, Family Court-cum-V Additional District Judge, Vijayawada, is hereby instructed to dispose of the said case within six (6) months from the date of receipt of a copy of the records.

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

SD/- SHAIK MOHD. RAFI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Family Court-Cum-V Additional District Judge, Tirupathi, Chittoor District.
2. The Family Court-Cum-V Additional District Judge, Vijayawada, Krishna District.
3. One CC to Sri Jada Sravan Kumar, Advocate [OPUC]
4. One CC to Sri P Jagadish Chandra Prasad, Advocate [OPUC]
5. Polipongu Vijaya, W/o. Polipongu Lokanadham, Aged about 50 years, R/o. D.No.18-7-20, Aarupamula Road, Khuddus Nagar, Gandhinagar, Vijayawada, NTR District, Andhra Pradesh -520003.
6. Polipongu Lokanadham, S/o. Nagaiah, R/o. D.No.23-1-39/1, Sri Durga Nagar, MR Palli, Opposite ZP High School, Tirupati City District, Andhra Pradesh.
7. **Three CD Copies**

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HIGH COURT

DATED:07/01/2025

ORDER

TRCMP.No.397 of 2024



ALLOWING THE TRANSFER CIVIL MISCELLANEOUS PETITION