Neutral Citation: _____

APHC010578982024

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI **[3606]**

MONDAY, THE 05TH DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

TRANSFER CIVIL MISCELLANEOUS PETITION No.437 OF 2024

Between:

1. CHALLA JYOTHI, W/o. Srinivasa Rao, Aged about 34 years, Occ: House wife, R/o. Flat No. S-4, Near Water Plant, 0pp. Nagaraju Tiles, Prasanthi Nagar, Jammu Narayanapuram, Vizianagaram, Vizianagaram District.

...Petitioner

AND

1. CHALLA SRINIVASA RAO, S/o. Venkatapparao, Aged about 36 years, Occ: Auto Driver R/o. Mettavalasa Village, Palakandyam Junction, G-Sigadam Mandal, Srikakulam 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 withdraw the case HMOP.No.59/2024 pending on the file of the Senior Civil Judge at Rajam, Srikakulam District and transfer the same to the Honble court of Family Court Judge-

cum-III Additional District Judge, Vizianagaram, Vizianagaram District.

IA No.1 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 including appearance of the petitioner in HMOP.No.59/2024 pending on the file of the Senior Civil Judge at Rajam, Srikakulam District pending disposal of the Transfer Petition.

Counsel for the Petitioner : Kanakala Devi Prasanna Kumar

Counsel for the Respondent : Tota Tejeswara Rao

The Court made the following

ORDER:

The petitioner, Challa Jyothi, has filed this Petition, under Section 24 of Code of Civil Procedure, 1908 (In short, referred as 'the Code'), seeking the relief to withdraw H.M.O.P. No.59 of 2024 from the Court of Civil Judge (Senior Division), Rajam, Srikakulam District and transfer the same to the Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District.

Petitioner's case:

2. Petitioner asserts that her marriage with the respondent, Challa Srinivasa Rao, was solemnized as per Hindu rites and customs on 14.08.2021 at Palakandyam Village, G-Sigadam Mandal, Srikakulam District. Out of their wedlock, a baby boy is born on 17.07.2022. There are allegations that at the time of marriage and during the marital life, there were some disturbances due to the respondent's behavior and his in-laws activities, she lodged a complaint on the file of Disha Women Police Station, Vizianagaram, which was registered as F.I.R. No.48 of 2024 on 28.05.2024 for the offences under Section 498-A of the Indian Penal Code, 1860 (for short, 'the IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'the DP Act'). She is residing with her parents.

3. Petitioner asserts that as she has no means of income, she filed a complaint under the Protection of Women from Domestic Violence Act, 2005 (for short, 'the DVC Act') *i.e.,* D.V.C. No.20 of 2024 on the file of I Additional Judicial Magistrate of First Class, Vizianagaram (for short, 'the I AJMFC'). The said case is pending.

While so, the respondent has moved a Petition for restitution of conjugal rights *vide* H.M.O.P. No.67 of 2023 under Section 9 of the Hindu Marriage Act, 1956 (for short, 'the H.M. Act'). The same was allowed on 14.12.2023. While the said case is pending, the respondent has filed H.M.O.P. No.59 of 2024 on the file of Civil Judge (Senior Division) at Rajam for dissolution of marriage.

4. Petitioner asserts that the filing of H.M.O.P. No.59 of 2024 was subsequent to her complaint as well as D.V.C. No.20 of 2024. As such she is unable to travel all the way to attend the Courts at Rajam. She is residing with her parents at Vizianagaram. She has no male support. She has fear to attend the Courts at Rajam, without male assistance and also she is taking care of the baby boy aged 3 years. Hence, she filed the present Petition seeking to withdraw H.M.O.P. No.59 of 2024 from the Court of Civil Judge (Senior Division), Rajam, Srikakulam District and transfer the same to the Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District.

Proceedings before this Court:

5. Challa Srinivasa Rao is the respondent. Notice was ordered to him. Despite of service of notice, none appeared for the respondent.

Submissions of petitioner:

6. Heard Sri K. Devi Prasanna Kumar, learned counsel for the petitioner.

7. Learned counsel for the petitioner submits that the respondent, initially filed a Petition for restitution of conjugal rights though that was allowed, he specifically filed a Petition for dissolution of marriage. As being the lady, she is unable to transfer and sought to consider the present Transfer Petition.

Discussion:

8. I have heard the petitioner and perused the entire record.

9. As per the affidavit, the marital relationship and birth of a baby boy are factual aspects. The pleadings and pendency of different cases do show that there is a marital difference between the parties. The Petition filed by the respondent shows the residential address of the petitioner is at Vizianagaram. This would confirm that the petitioner is residing at Vizianagaranm along with her parents.

10. The affidavit further reads that the respondent has moved H.M.O.P. No.67 of 2023, initially, prior to the complaints lodged by the petitioner for restitution of conjugal rights, which was allowed on 14.12.2023. In the said case, it appears that the petitioner remained *ex parte* and an *ex parte* decree has been passed. There is no record to show that the impugned order was challenged by the petitioner, subsequent to the said disposal. The complaints for harassment of dowry and domestic violence have been made and appears to have been registered in the year 2024. Thereafter, in the year 2025, the respondent appears to have filed H.M.O.P. No.59 of 2024, for dissolution of marriage.

11. The order of granting restitution of conjugal rights, under Section 9 of the H.M. Act, would show that a direction was given to the petitioner herein to join the respondent herein to lead conjugal life within three (3) months from the date of the said order.

12. As it is an *ex parte* decree, which can be considered that the petitioner had no knowledge about the proceedings. As per the record, the petitioner has not challenged the said order. The copy of the petition filed by the petitioner in H.M.O.P. No.59 of 2024 would show that the petitioner herein is residing at Vizianagaram with the minor boy *viz.,* Sai Deepak. The said Petition further reads that the Court has granted the relief for restitution of conjugal rights but the petitioner did not join the respondent. Hence, he filed the Petition H.M.O.P. No.59 of 2024 for dissolution of marriage. It appears that the said Petition is filed in the year 2024, after the decree of restitution of conjugal rights directing the petitioner herein to join the respondent within three (3) months.

13. Filing of H.M.O.P. No.59 of 2024 does not reflect that the respondent addressed any letter to the petitioner to take her into his fold, pursuant to the decree of restitution of conjugal rights but his allegation that mediations were placed before the elders, as the petitioner did not join, he filed the Petition H.M.O.P. No.59 of 2024 for dissolution of marriage. This requires consideration in view of provision of Section 13(1A)(ii) of the H.M. Act, which provides one of the grounds for dissolution of marriage; is the opposite party denies joining the petitioner subsequent to the order of the restitution of conjugal rights for a period of one year from the date

of decree of the restitution of conjugal rights. In this case, *prima-facie*, it is found the petitioner has filed the Petition for dissolution of marriage before the completion of one year.

14. Different legal initiations by both the parties have been taken place in the year 2024 subsequent to the decree of restitution of conjugal rights. Since the respondent has moved a Petition for dissolution of marriage, the decree for restitution of conjugal rights has become a subject matter of legalities, in view of the provisions of H.M. Act.

15. This Court is conscious that under Section 24 of C.P.C. cannot go into merits of the case. However, the above discussion is made only for the purpose that the conduct of the respondent subsequent to the decree of restitution of conjugal rights leading to filing of Petition for dissolution of marriage. Though the distance in between the two stations is said to be 50 K.Ms. but the above proceedings and that criminal complaints for harassment for dowry and domestic violence have already been registered and are pending at the Vizianagaram Courts and admittedly the petitioner is residing at Vizianagaram with the child and the legalities to be decided, the competent Court could be the family Court at Vizianagaram. Though the Principal District Court, under Section 24 of CPC is competent, since this matter has been taken by this Court, the Court is considering the present Petition to the limited extent only.

16. In ***N.C.V. Aishwarya v. A.S. Saravana Karthik Sha***[1] and ***Rajani Kishor Paradeshi v. Kishor Babulal Pardeshi***[2], the Hon'ble Supreme Court held that the convenience of the female litigants has to be considered.

17. The above views expressed are only for the purpose of this Petition but shall not be relied on for further proceedings. With the above reasons, and the law laid down by the Hon'ble Apex Court in ***N.C.V. Aishwarya*** (1st *supra*) and ***Rajani Kishor Paradeshi*** (2nd *supra*), considering the petitioner is residing at Vizianagaram with child, different cases are pending at the Vizianagaram Courts and the said distance between the Courts at Rajam and Vizianagaram is only 50 K.Ms. this application requires consideration. In ***Geeta Heera v. Harish Chander Heera***[3], the Hon'ble Apex Court held that, because "if a wife does not have suficient funds to visit the place where her husband files the divorce petition, then the the transfer petition filed by the wife may be allowed." In ***Rashmi Mahadik v. Pushpendra Mahadik***[4], the Hon'ble Apex Court held as follows at Para No.9:

> "9. If video conferencing facility is available with the transfere Court, the benefit of the same shall be made available to the parties. They need not appear physicaly on each date unless their physical presence is absolutely necessary."

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[1] AIR 2022 (SC) 4318
[2] 2005 (12) SCC 237
[3] (2000) 10 SC 304
[4] (Tr.P.(Civil).No.404/2025 of Supreme Court, Dt.15.07.2025)

18. With the above rulings, with an opportunity to the respondent to appear virtually, dispensing his presence for each and every adjournment, the present Petition can be considered to withdraw H.M.O.P. No.59 of 2024 from the Court of Civil Judge (Senior Division), Rajam, Srikakulam District and transfer the same to the Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District.

19. In the result, the Transfer Civil Miscellaneous Petition is allowed, with the following directions:-

(i). H.M.O.P.No.59 of 2024 is hereby withdrawn from the file of the Court of Civil Judge (Senior Division) at Rajam, Srikakulam District and transferred to the file of Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District.

(ii). The learned Civil Judge (Senior Division) at Rajam is directed to transmit the entire record in H.M.O.P.No.59 of 2024, duly indexed, to the file of Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District, within a reasonable time.

(iii). The Family Court-cum-III Additional District Judge, Vizianagaram, Vizianagaram District, upon receipt of the case records, shall renumber the case as per due procedure, after giving notices to both parties, and proceed in accordance with law.

(iv). The Judge, Family Court-cum-III Additional District Judge at Vizianagaram, is further directed not to insist on the personal appearance of the respondent-husband on each and every adjournment, unless his presence is required for reconciliation, mediation, recording of evidence, or whenever specifically directed by the Court, subject to his being represented by counsel.

There shall be no order as to costs.

20. As a sequel, miscellaneous applications, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

Interim order, granted earlier, if any, shall stand vacated.

JUSTICE PURUSHOTTAM KUMAR CHINTHALAPUDI

Date:05.10.2026
DSH

Whether the order is:

Speaking		Reasoned	√
Reportable		Non-Reportable	√