

**THE HON'BLE SRI JUSTICE BANDARU SYAMSUNDER**

**TRANSFER CIVIL MISCELLANEOUS PETITION**

**NO. 40 OF 2023**

**ORDER:**

I have heard learned counsel for the petitioner, Mr. S. Khader Mohiddin. None appeared for the respondent, though notice is sent to the respondent through registered post with acknowledgment due with speed post, which received by the respondent as per postal track report filed by the learned counsel for the petitioner.

2. This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife under Section 24 of Code of Civil Procedure (in short 'CPC') seeking transfer of H.M.O.P.No.77 of 2022 from Senior Civil Judge Court, Kovvur of SPSR Nellore District to Senior Civil Judge Court, Rajampeta of YSR Kadapa District.

3. The contention of the petitioner/wife in brief is that her marriage with respondent was solemnized on 01.09.2013 in Temple at Penchalakona Village of SPSR Nellore District and marriage was consummated couple blessed with a female child on 29.05.2014. The petitioner alleged that she was subjected to physical and mental harassment by the respondent and his relatives on the

demand of additional dowry. She also alleged that though respondent is working as a Software Engineer at Hyderabad. He intentionally kept the petitioner at his parents' house who married another woman with whom he is living at Housing Board Colony of Kukatpalli Area of Hyderabad. As respondent said to be rejected the petitioner, she being a physically handicapped woman now residing in her parents' house at Rajampeta Town of YSR Kadapa District and she lodged a report before Station House Officer, Rajampeta Police Station against the respondent and his relatives who registered the case for the offences punishable under Sections 498A, 494, 509, 506 R/w 34 IPC and Sections 3 and 4 of Dowry Prohibition Act, 92(a) of the Rights of Persons with Disability Act, 2016 and Section 67 of Information Technology Act on 14.12.2019 which is pending trial before Judicial Magistrate of First Class at Rajampeta. The petitioner also filed M.C.No.7 of 2021 under Section 125 of Cr.P.C. claiming maintenance from the respondent, which is pending before Junior Civil Judge Court, Rajampeta.

4. The main contention of the petitioner is that as she filed two cases against the respondent, which are pending before Courts at Rajampeta, the respondent with false allegations filed divorce petition before Senior Civil Judge Court, Kovvur and she has got

threat to her life when she attends the Court at Kovvur of SPSR Nellore District. She prays to allow the petition.

5. The learned counsel for the petitioner would submit that petitioner is now residing in her parents' house at Rajampeta who also lodged a report before Station House Officer, Rajampeta for the harassment which she meted out in the hands of the respondent and his relatives and the respondent also living with another woman at Hyderabad, as per information furnished by the petitioner. He would further submit that already two cases are pending before the Courts at Rajampeta wherein the respondent has to appear. He prays to allow the petition.

6. The respondent not chosen to appear and not filed counter-affidavit denying averments in the affidavit of the petitioner.

7. It is not in dispute that petitioner lodged a report before Station House Officer, Rajampeta Police Station on 14.12.2019 who registered the case against the respondent and his relatives after due investigation said to be filed charge sheet before Judicial Magistrate of First Class, Rajampeta. The petitioner also filed M.C.No.7 of 2021 under Section 125 of Cr.P.C. seeking maintenance from the respondent. Both cases are filed by the

petitioner prior to the respondent filed H.M.O.P.No.77 of 2021 before Senior Civil Judge Court, Kovvur, SPSR Nellore District. The petitioner apprehending danger to her life, if she visits the Court at Kovvur to defend the divorce petition filed by the respondent, whereas the respondent has to attend the Court at Rajampeta to putforth his defence if any, in a criminal case pending against him and also in maintenance case filed by the petitioner. The petitioner is said to be differently abled person having minor child, certainly difficult for her to travel from Rajampeta Town to Kovvur Town as she said to be not having any source of income.

8. It is consistent view of Hon'ble Apex Court that in respect of matrimonial proceedings, the convenience of wife has to be considered and in addition to that this Court has considered the fact that other cases between the parties already pending in Court at Rajampeta due to that it is desirable to transfer of H.M.O.P.No.77 of 2022 from Senior Civil Judge Court, Kovvur to SPSR Nellore District to Senior Civil Judge Court, Rajampeta, YSR Kadapa District.

9. In the result, Transfer Civil Miscellaneous Petition is allowed. The H.M.O.P.No.77 of 2022 on the file of the Senior Civil Judge Court, Kovvur, SPSR Nellore District is hereby withdrawn and

transferred to the Senior Civil Judge Court at Rajampeta, YSR Kadapa District.

10. The Senior Civil Judge, Kovvur, SPSR Nellore District shall transmit case records in H.M.O.P.No.77 of 2022 to the Senior Civil Judge Court at Rajampeta, YSR Kadapa District duly indexed as expeditiously as possible within two (2) weeks from the date of receipt of orders of this Court in the present petition. On receiving the case records, the Senior Civil Judge Court at Rajampeta, YSR Kadapa District shall not insist physical appearance of both parties before the Court if they engages an advocate and he can insist physical appearance of both parties whenever required during the course of enquiry.

11. The Senior Civil Judge Court at Rajampeta, YSR Kadapa District is hereby directed to explore possibility of amicable settlement of matrimonial disputes between the parties by conducting counselling or conciliation as per procedure laid down under law. Both parties shall appear before the Senior Civil Judge Court at Rajampeta, YSR Kadapa District on 05.05.2023 at 10.30 AM. No order as to costs.

Consequently, miscellaneous petitions if any, shall stand closed. Interim stay granted if any, shall stand vacated.

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**JUSTICE BANDARU SYAMSUNDER**

Date: 10.04.2023  
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