

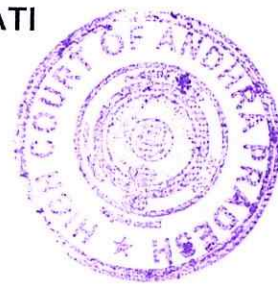
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MONDAY, THE TWENTY FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

HONOURABLE SRI JUSTICE BANDARU SYAMSUNDER

TRANSFER CIVIL MISCELLANEOUS PETITION No. 75 of 2021



Between:

Vasantham Sreenivasulu, S/o.late Ramachandra Reddy. Aged about 57 Years, Occ: Advocate & Chartered Accountant R/o. D.No. 12-10-587/95, Plot No.202. Mandibavi Street, Secunderabad, Hyderabad. Presently Residing at Kurnool.

...Petitioner

AND

1. Vasantham Jayasree @ Jayamma, W/o. V.Sreenivasulu, Aged about 40 Years, Occ: Housewife, R/o.Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District, Presently R/o.D.No.12-10-587/94, Plot No.202, Mandibavi Street, Secunderabad, Hyderabad.
2. Vasantham Sri Harish Reddy, S/o. Sreenivasulu, Aged about 10 Years, Minor Rep. by His mother/natural guardian 1st respondent, R/o.Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District, Presently R/o.D.No.12-10-587/94, Plot No.202, Mandibavi Street, Secunderabad, Hyderabad.

...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 withdraw the M.C.No.01 of 2021 on the file of Judicial 1st Class Magistrate at Sidhout and transfer the same to the Judicial First Class Magistrate at Kurnool.

IA NO: 1 OF 2021

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 the all proceedings including the appearance of the petitioner in M.C.No.01 of 2021 on the file of Judicial 1st Class Magistrate at Sidhout.

IA NO: 1 OF 2023

Between:

1. Vasantham Jayasree @ Jayamma, W/o. V.Sreenivasulu, Aged about 40 Years, Occ: Housewife, R/o.Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District, Presently R/o.D.No.12-10-587/94, Plot No.202, Mandibavi Street, Secunderabad, Hyderabad.

2. Vasantham Sri Harish Reddy, S/o. Sreenivasulu, Aged about 10 Years, Minor Rep. by His mother/natural guardian 1st respondent, R/o.Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District, Presently R/o.D.No.12-10-587/94, Plot No.202, Mandibavi Street, Secunderabad, Hyderabad.

... Petitioners/Respondents

AND

Vasantham Sreenivasulu, S/o.late Ramachandra Reddy. Aged about 57 Years, Occ: Advocate & Chartered Accountant R/o. D.No. 12-10-587/95, Plot No.202. Mandibavi Street, Secunderabad, Hyderabad. Presently Residing at Kurnool.

... Respondent/Petitioner

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 VACATE the Interim Orders dated 17.09.2021 in I.A.No.1 of 2021 in TR.C.M.P.No.75 of 2021 and DISMISS the Transfer Civil Miscellaneous petition Tr.CMP.No.75 of 2021.

Counsel for the Petitioner : Sri K Viswanatham

Counsel for the Respondents : Sri Phani Babu Yalamanchili

The Court made the following:

THE HON'BLE SRI JUSTICE BANDARU SYAMSUNDER
TRANSFER CIVIL MISCELLANEOUS PETITION
No.75 OF 2021

ORDER:

I have heard learned counsel for the petitioner, Mr. K. Viswanatham, as well as learned counsel for the respondents, Mr. Y. Phani Babu.

2. This Transfer Civil Miscellaneous Petition is filed by the petitioner/husband under Section 24 of Code of Civil Procedure (in short "CPC"), seeking transfer of M.C. No.01 of 2021 from Judicial First Class Magistrate Court, Sidhout, to Judicial First Class Magistrate Court, Kurnool, on the ground that now the petitioner is suffering from serious ill health residing at Kurnool. The petitioner submits that though respondents are residing at Secunderabad, they intentionally filed the petition before Judicial First Class Magistrate Court, Sidhout, seeking maintenance to cause inconvenience to him. He prays to allow the petition.

3. The respondents filed counter affidavit denying averments in the affidavit of the petitioner. It is the contention of the respondents that presently, respondent No.1 is residing

at Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District, due to that she filed petition under Section 125 Cr.P.C., seeking maintenance from the petitioner, who is practising as an advocate and also Chartered Accountant. They submit that the respondent No.1/wife lodged a report against the petitioner in Cr. No.146 of 2020 for the offences punishable under Section 498(A), 506 read with Section 34 IPC and Sections.3 & 4 of the Dowry Prohibition Act, wherein after due investigation, police also filed a charge sheet before Judicial First Class Magistrate Court, Sidhout, by deleting the name of accused No.2, Smt. B. Lakshmi Devi in the list of the accused, then respondent No.1 said to be preferred protest petition, which is pending adjudication. It is also the contention of the respondents that respondent No.1 filed F.C.O.P. 281 of 2021 on the file of Family Court, Secunderabad for partition of two properties and address shown in the petition is the house property said to be purchased by respondent No.1 with the amount given by her, which is subject matter in F.C.O.P. 281 of 2021 pending on the file of Family Court, Secunderabad. They pray to dismiss the petition.

4. The learned counsel for the petitioner would submit that though respondents are residing at Secunderabad in the address shown in their cause title of the maintenance case, intentionally filed petition under Section 125 Cr.P.C, seeking maintenance from the petitioner before the Judicial First Class Magistrate Court, Sidhout, Y.S.R. Kadapa District, to cause inconvenience to the petitioner. He would further submit that the respondents also filed F.C.O.P. 281 of 2021 on the file of Family Court, Secunderabad for partition of the properties, wherein they have also shown that they are residing at Secunderabad, and now they are stating that they are residing at Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District. He argued that still respondents are residing at Secunderabad, whereas petitioner was thrown out from the house, due to that the petitioner, who is suffering from serious ill-health is residing at Kurnool. It is also the contention of the learned counsel for the petitioner that he filed medical records and a copy of photographs to show the present medical condition of the petitioner, who is suffering from serious ill-health developed a gangrening to both legs and Medical Officers also advised for

amputation of legs, which he has not preferred. He prays to allow the petition.

5. The learned counsel for the respondents would submit that the respondents have shown their address in F.C.O.P. 281 of 2021 that they were residing at Secunderabad, but presently, they are residing at Salabad Village, Vontimitta Mandal, YSR Kadapa District, where respondent No.1 also lodged a report against the petitioner for dowry harassment, wherein police after due investigation, filed chargesheet against the petitioner. He would further submit that respondents have no means to travel from the village in Kadapa District to attend the Court at Kurnool, if the request of the petitioner to transfer the case is considered. He prays to dismiss the petition.

6. Now the point that emerges for consideration of this Court is:-

“Whether there are any grounds to transfer M.C. No. 01 of 2021 from Judicial First Class Magistrate Court, Sidhout to Judicial First Class Magistrate Court, Kurnool?”.

7. **POINT:-**

It is not in dispute that presently, petitioner is residing at Kurnool and he also filed a copy of medical records to support his contention that he is suffering from serious ill health, due to diabetes his lower limb was also affected as per the photographs filed by him along with the petition. Admittedly, respondents have filed F.C.O.P. 281 of 2021 on the file of Family Court, Secunderabad, seeking for partition of house properties situated at Secunderabad. A perusal of copy of M.C. No. 01 of 2021 filed by the respondents on the file of Judicial First Class Magistrate Court, Sidhout, which shows that both respondents are now said to be residing at Salabad Village, Vontimitta Mandal, Y.S.R. Kadapa District and they have also stated that presently they are residing at D.No.12-10-587/94, Plot No.202, Mandibavi Street, Secunderabad, Hyderabad city, which *prima facie* supports the contention of the petitioner that the respondents are residing at Secunderabad of Hyderabad city, where they admittedly filed F.C.O.P. 281 of 2021 seeking partition of the house properties. The contention of the respondents as per paragraph No.4 of M.C. No. 01 of 2021

shows that respondent No.1 was forced to live with her parental village at Salabad Village, Vontimitta Mandal, YSR Kadapa District, but no authenticated document issued by the revenue authorities is filed to support their contention except the copy of Aadhaar Card for which the learned counsel for the petitioner would submit that the change of address in the Aadhaar Card can be done at any time as per their convenience. The fact remains is that now the petitioner is suffering from serious ill health and positive photographs filed by him *prima facie* shows that his lower limb is severely affected, due to gangrening, who certainly require continuous medical treatment. It is not the contention of the respondents that they are not in a position to travel, except expressing the difficulty that they are not having any source of income to prosecute their maintenance case. After considering the health condition of the petitioner/husband, as respondents have also previously shown their address that they were residing at Secunderabad of Hyderabad city, this Court is of an opinion that there are grounds to consider the request of the petitioner to transfer the M.C. No. 01 of 2021 from Judicial First Class Magistrate Court,

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Sidhout to Judicial First Class Magistrate Court, Kurnool.

8. In the result, this Transfer Civil Miscellaneous Petition is allowed. M.C. No.01 of 2021 on the file of Judicial First Class Magistrate Court, Sidhout is hereby withdrawn and transferred to I Additional Judicial First Class Magistrate Court, Kurnool.

9. The Judicial First Class Magistrate, Sidhout, shall send the case records in M.C. No.01 of 2021, after duly indexed to I Additional Judicial First Class Magistrate Court, Kurnool, as expeditiously as possible, within two (02) weeks from the date of receipt of orders of this Court in the present petition.

10. The petitioner/husband shall pay a sum of Rs.1,000/- (One Thousand Rupees only) to respondent No.1/wife, whenever she attends before the I Additional Judicial First Class Magistrate Court, Kurnool in M.C. No.01 of 2021. The I Additional Judicial First Class Magistrate, Kurnool, shall ensure that such payment is made to respondent No.1/wife on every occasion of her attendance before the Court at Kurnool.

11. The I Additional Judicial First Class Magistrate, Kurnool, shall not insist physical presence of the respondent No.1/wife for each and every adjournment, if she engages an Advocate, he can insist her presence as and when required or at the time of recording her evidence before the Court. The I Additional Judicial First Class Magistrate, Kurnool, shall also provide necessary legal aid to respondent No.1, if she requires the same.

12. Both parties shall appear before the I Additional Judicial First Class Magistrate Court, Kurnool, on 30.10.2023 at 10.30am.

No order as to costs. Consequently, miscellaneous petitions if any, stand closed. The Interim Stay if any, granted, shall stand vacated.

SD/-B PRASADA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

for chsn
SECTION OFFICER

To

1. The Principal District & Sessions Judge, Kurnool.
2. The Judicial 1st Class Magistrate at Sidhout, Kurnool District.
3. The I Additional Judicial First Class Magistrate at Kurnool, Kurnool District.
4. One CC to Sri K Viswanatham, Advocate [OPUC]
5. One CC to Sri Phani Babu Yalamanchili, Advocate [OPUC]
6. **Two CD Copies**

TK

sree *TK*

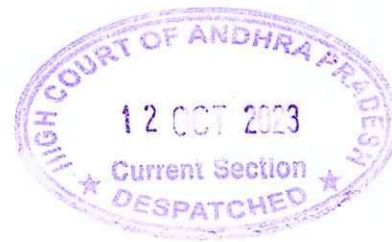
HIGH COURT

DATED:25/09/2023

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ORDER

TRCMP.No.75 of 2021



**ALLOWING THE TRANSFER CIVIL
MISCELLANEOUS PETITION**