

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SRI JUSTICE V.GOPALA KRISHNA RAO

TRANS. CIVIL MISC.PETITION NO: 369 OF 2024

Between:

Smt. Dharavathi Yamuna Bai, W/o. Balaji Naik, aged 28 years, Parents Protection, D/o.Banavathi Nagaraju Naik, Shabhad, Near Ayyappaswamy Temple, Jakkampudi Village, Vijayawada Rural Mandal, N.T.R. District.

...Petitioner

AND

Dharavathi Balaji Naik, S/o.Rekha Naik, aged 32 years, Business, R/o.D.No.3-5-1, New Sugali Colony, 3rd Ward, Sattenapalli Town, Palnadu District.

...Respondent

Petition filed 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 D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, to the Hon'ble Family Court Judge, Vijayawada.

IA NO: 1 OF 2024

Petition filed 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 grant the stay of all further proceedings including

appearance of the petitioner in D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur.

Counsel for the Petitioner :Sri Krishna Rao Paritala

Counsel for the Respondent :None appeared

The Court made the following:

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.369 of 2024

ORDER:

The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, to the Family Court Judge, Vijayawada, for trial.

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

I. The petitioner is none other than the wife of the respondent/husband, the marriage of the petitioner with the respondent was performed on 10.04.2012, as per Hindu rites and caste customs. After the marriage, the petitioner/wife was blessed with three (3) children and in view of the matrimonial disputes in between both the spouses; the petitioner/wife has been residing separately along with her two (2) children at her parents' house, at Jakkampudi Village, Vijayawada Rural Mandal, N.T.R. District. The petitioner/wife further contends that, one child was forcefully taken away by the respondent/husband from the custody of the petitioner herein and the child has been staying along with the respondent/husband.

II. The petitioner/wife further pleaded that to cause inconvenience and intentionally to harass her, the

respondent/husband filed D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, under Section 10(1) of Indian Divorce Act, 1869, seeking dissolution of the marriage by making false and frivolous allegations against the petitioner/wife. The petitioner/wife further contended that, the distance between Vijayawada and Guntur is more than 40 Kms, she being a women depending upon her parents along with her two (2) minor children, it is very difficult for her to travel from Vijayawada to Guntur to attend the Court proceedings on each and every adjournment at Guntur without any male support, and that she sought transfer of D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, to the Family Court Judge, at Vijayawada.

3. Heard learned counsel for the petitioner.
4. Though notice sent the respondent and the same was served on him. None appeared for the respondent.
5. Perused the material available on record.
6. 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."

¹ (2000) 10 SCC 304

7. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.SaravanaKarthikSha**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."

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 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, this Court is of the considered view that there are justifiable grounds to consider the request made by the petitioner/wife to transfer the D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, to the Family Court Judge, at Vijayawada.

² 2022 LiveLaw (SC) 627

9. In the result, the Transfer Civil Miscellaneous Petition is allowed and the D.O.P.No.846 of 2024 on the file of the Principal District Judge, Guntur, is hereby withdrawn and transferred to the Family Court Judge, at Vijayawada. The learned Principal District Judge, Guntur, shall transmit the case record in D.O.P.No.846 of 2024 to the Family Court Judge, 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. 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/-B PRASADA RAO
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal District Judge, Guntur, Guntur District.
2. The Principal District & Sessions Judge, Krishna at Machilipatnam.
3. The Family Court Judge, Vijayawada, Krishna District.
4. Smt Dharavathi Yamuna Bai, W/o.Balaji Naik, D/o.Banavathi Nagaraju Naik, Shabhad, Near Ayyappaswamy Temple, Jakkampudi Village, Vijayawada Rural Mandal, N.T.R. District.
5. Dharavathi Balaji Naik, S/o.Rekha Naik, Business, R/o.D.No.3-5-1, New Sugali Colony, 3rd Ward, Sattenapalli Town, Palnadu District.
6. One CC to Sri Krishna Rao Paritala Advocate [OPUC]
- 7. Three CD Copies**

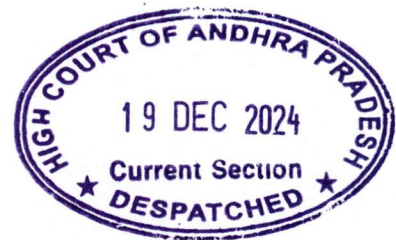
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HIGH COURT

DATED:04/12/2024

ORDER

TRCMP.No.369 of 2024



ALLOWING THE TR.C.M.P. WITHOUT COSTS