



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3397]

**THURSDAY, THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA
RAO**

TRANS. CIVIL MISC.PETITION NO: 43/2026

Between:

Nakka Vijetha @ Martin Vijetha,

...PETITIONER

AND

Nakka Lakshmi Narayana

...RESPONDENT

Counsel for the Petitioner:

1. AISHWARYA NAGULA

Counsel for the Respondent:

1. S SYAMSUNDER RAO

The Court made the following:

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.43 of 2026

ORDER:

The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking to withdraw D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku and transfer the same to the Judge, Family Court, Visakhapatnam.

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

- I. The petitioner is the legally wedded wife of the respondent and their marriage has been performed on 28.12.2013 as per Christian rites and customs. In view of the matrimonial disputes between both the parties, the petitioner/wife is staying at her uncle's house at Visakhapatnam, since her parents are no more and depending upon the mercy of her uncle. The petitioner pleaded that she filed a case in F.C.O.P.No.1790 of 2015, on the file of the Family Court, Visakhapatnam seeking maintenance and a Domestic Violence Case vide D.V.C.No.19 of 2018, on the file of the Chief Metropolitan Magistrate, at Visakhapatnam. The learned counsel for the petitioner would contend that to cause inconvenience to the petitioner, the respondent/husband filed D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku under Section 10(ix)(x) of the Divorce Act, 1869, seeking dissolution of marriage.

II. Learned counsel for the petitioner further contended that the petitioner being a woman and depending upon the mercy of her uncle, it is very difficult for her to travel a distance of more than 250 kms from Visakhapatnam to Tanuku for attending the divorce case proceedings before the learned IV Additional District Judge, Tanuku, on each and every date of adjournment without any male support and that she was constrained to file the present petition against the respondent/husband seeking to withdraw D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku and transfer the same to the Judge, Family Court, Visakhapatnam.

3. The respondent has filed a counter affidavit by denying the material allegations levelled in the transfer petition filed by the petitioner. Learned counsel for the respondent/husband contended that there are no merits in the transfer petition filed by the petitioner and requested to dismiss the transfer petition.

4. Heard Ms. Aishwarya Nagula, learned counsel for the petitioner and Sri S.Syamsunder Rao, learned counsel for the respondent. Perused the material available on record.

5. The grounds urged by the petitioner for seeking transfer of D.O.P.No.270 of 2025 from the IV Additional District Judge, Tanuku to the Judge, Family Court, Visakhapatnam, are that the petitioner/wife herein is currently residing at Visakhapatnam at her uncle's house, since her parents are no more and further

contended that the petitioner/wife filed a Maintenance Case and Domestic Violence Case against the respondent/husband before the competent courts at Visakhapatnam and the said two (02) cases were disposed of by the competent courts at Visakhapatnam. The petitioner further contended that the distance between Visakhapatnam and Tanuku is more than 250 kms and that it is very difficult for the petitioner to travel from Visakhapatnam to Tanuku on each and every date of adjournment without any male support and that the petitioner/wife filed the present petition seeking transfer of D.O.P.No.270 of 2025 from the IV Additional District Judge, Tanuku to the Judge, Family Court, Visakhapatnam.

6. Learned counsel for the respondent/husband would contend that the mother of the respondent/husband is suffering from the last stage of HIV disease and the respondent has to look after his mother and requested dismissal of the transfer petition filed by the petitioner. He further contended that, if this Court is inclined to transfer the case from Tanuku to Visakhapatnam, the personal attendance of the respondent/husband may be dispensed with before the transferee Court. In order to prove the same, the respondent/husband has not filed any medical certificate or any other prima facie evidence to establish the defence put forth by him in the counter affidavit. However, the material on record prima facie reveals that due to matrimonial disputes and in view of the demise of her parents, the petitioner/wife is currently residing at her uncle's house at Visakhapatnam. The respondent/husband has filed D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku, seeking dissolution of marriage.

7. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.Saravana Karthik Sha**¹ 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 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 considered than that of the inconvenience of the husband. Therefore, this Court is of the considered view that there are grounds to consider the request of the petitioner/wife to withdraw D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku and transfer the same to the Judge, Family Court, Visakhapatnam. Further on considering the submissions made by the learned counsel for the respondent/husband, as the mother of the respondent is suffering from the last stage of HIV disease and the respondent has to look after his mother, the personal attendance of the respondent/husband has been dispensed with before the transferee Court, except on the days when his presence is required before the learned Judge, Family Court, Visakhapatnam.

¹ 2022 LiveLaw (SC) 627

9. In the result, the present petition is **allowed** and D.O.P.No.270 of 2025, on the file of the IV Additional District Judge, Tanuku, is hereby withdrawn and transferred to the Judge, Family Court, Visakhapatnam. The IV Additional District Judge, Tanuku, shall transmit the case record in D.O.P.No.270 of 2025 to the Judge, Family Court, Visakhapatnam, duly indexed within a period of two (02) weeks from the date of receipt of a copy of the order. Later the learned Judge, Family Court, Visakhapatnam, is directed not to insist for the personal appearance of the respondent/husband i.e., the petitioner in D.O.P.No.270 of 2025, as long as his counsel is attending the Court proceedings and representing the case except on the day when re-conciliation proceedings are being taken up or on the day when his cross-examination is required to be recorded or on any other day when his personal appearance is required as directed by the learned Judge, Family Court, Visakhapatnam. 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.

JUSTICE V.GOPALA KRISHNA RAO

Date: 23.04.2026

SRT