

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.49 of 2026

ORDER:

The petitioner herein/husband filed the present petition under Section 151 of the Code of Civil Procedure, 1908, seeking for withdrawal of F.C.O.P.No.980 of 2025, on the file of IV Additional District and Sessions Judge-cum-Principal Family Court, Vijayawada, and transfer the same to the file of the VI Additional District and Sessions Judge-Cum- Family Court, Nellore, for trail and disposal of the same.

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

i) The petitioner is the legally wedded husband of the respondent/wife, and their marriage was solemnized on 07.12.2022 at Swarna Vedika, Nellore, as per Hindu rites and caste customs. Thereafter, due to matrimonial disputes between the parties, they were living separately. The petitioner herein/husband filed a divorce petition against the respondent/wife *vide* F.C.O.P.No.152 of 2025, on the file of the learned Judge, Family Court, Nellore, S.P.S.R. Nellore District, under Section 13(I)(ia) of the Hindu Marriage Act, 1955, seeking for dissolution of Marriage and the same is pending for adjudication.

ii) The petitioner/husband further pleaded that the wife/respondent herein filed a petition *vide* F.C.O.P.No.980 of 2025, on the file of the learned Judge, Family Court, Vijayawada, under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights and the same is also pending for adjudication.

3. Learned counsel for the petitioner submitted that F.C.O.P.No.152 of 2025, filed by the petitioner herein was pending before the learned Judge, Family Court, Vijayawada. By virtue of the orders dated 28.01.2026 passed in Tr.C.M.P.NO.400 of 2025, the F.C.O.P.No.152 of 2025, filed by the petitioner herein, on the file of the learned Judge, Family Court, Nellore, S.P.S.R. Nellore District, was allowed transferred the same to the learned Judge, Family Court, Vijayawada, whereas the present F.C.O.P.No.980 of 2025, filed by the wife/respondent herein, is also pending before the learned Judge, Family Court, Vijayawada.

4. Learned counsel for the respondent/wife contended that the present transfer petition is not maintainable, as both F.C.O.P. No. 152 of 2025 filed by the husband/petitioner herein and F.C.O.P. No. 980 of 2025 filed by the wife/respondent herein are already pending before the learned Judge, Family Court, Vijayawada, pursuant to the orders 28.01.2026 passed earlier. Since both matters are before the same Court and can be tried together, there is no necessity to transfer the

present case, and therefore, the present petition is liable to be dismissed.

5. Heard Smt. K.Pallavi, learned counsel for the petitioner, and Sri Md.Saleem, learned counsel for the respondent.

6. Perused the material available on record.

7. As the divorce case filed by the petitioner/husband has already been transferred to the learned Judge, Family Court, Vijayawada, and the present case, i.e., F.C.O.P. No. 980 of 2025, is also pending before the same Court, the question of transferring the present case does not arise. Since both matters are to be tried together before the same Court, this Court is of the considered view that it is not desirable to transfer F.C.O.P. No. 980 of 2025.

8. Considering the submissions made by the learned counsel appearing on both sides and having regard to the facts and circumstances of the case, this Court is of the view that, since the petitioner herein is a Government employee currently residing at Nellore, his personal appearance shall be dispensed with, except on the days when his presence is required before the said Court in accordance with law.

9. In the result, the Transfer Civil Miscellaneous Petition is **disposed of** and the learned Judge, Family Court, Vijayawada, is hereby directed not to insist upon the personal appearance of the petitioner herein i.e. the respondent in F.C.O.P.No.980 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 IV Additional District and Sessions Judge-Cum-Principal Family Court, Vijayawada. 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: 26.02.2026

JLSR/MH