

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**MONDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT



THE HON'BLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

TRANS. CIVIL MISC.PETITION NO: 70 OF 2025

Between:

Ghanta Deepika, W/o Mohana Gandhi D/o Mudharakota Bothaiah, aged 23 years, Occ House Wife, Tuvva chilaka rayudu palem, Linga Palem Mandal, Elum Distuct.

...PETITIONER

AND

Ghanta Mohana Gandhi, S/o Sri Rama Swamy Aged 32 years, Occ Private Service R/o. Door No. 14-73-4, CBN Colony, Moris Pet, Tenali Guntir District.

...RESPONDENT

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 withdrawing the DOP No. 390 of 2024 from the file of learned XI Addl. District Judge Court at Tenali, Guntur District and transfer to the learned Family Court at Eluru, Eluru District.

IA NO: 1 OF 2025

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 grant stay of all further proceedings including the appearance of the petitioner in D O.P. No. 390 of 2024 ion the file of learned XI Additional Judge Court, at Tenali, Guntur.



This petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of SRI CH. SRINIVAS, Advocate for the petitioner and of SRI K. NAGESWARA RAO, Advocate for the Respondent.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.70 of 2025

ORDER:

The petitioner/wife herein filed the present petition under Section 24 of the Code of Civil Procedure, 1908, (for short 'the C.P.C.') seeking to withdraw the D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District and transfer the same to the Judge, Family Court, Eluru, West Godavari District, for trial.

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

- I. The petitioner is the legally wedded wife of the respondent and the marriage of the petitioner with the respondent was solemnized on 17.12.2020, in Parisuddha Nilayam Prayer House, Thuvvachiluka Rayudu Palem Village, Linga Palem Mandal, West Godavari District, as per the Christian Rites and Traditions. During their wedlock period, the petitioner and the respondent were blessed with a female child. After that, due to the matrimonial disputes between both the spouses, the petitioner/wife has been residing separately at her parents' house at Thuvvachiluka Rayudu Palem Village, Thuvvachiluka Rayudu Palem Village, West Godavari District. In view of the harassment made by the respondent/husband, the petitioner/wife lodged a complaint against the respondent/husband, dated 13.09.2023, in Crime No.234 of 2023, under Section 498-A of I.P.C. and under Sections 3 & 4 of the Dowry

Prohibition Act, 1961, before the Dharbagudem Police Station, the same is pending for investigation. The petitioner/wife further pleaded that she filed Maintenance Case *vide* M.C.No.1 of 2025 on the file of the Junior Civil Judge, Chinthalapudi, under Section 144 of B.N.S.S Act, 2023, seeking monthly maintenance from the respondent/husband and the same is pending for adjudication.

- II. The petitioner/wife further pleaded that to cause unnecessary inconvenience to her, the respondent/husband had filed D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District, under Section 32 of the Indian Divorce Act, 1869, seeking restitution of the conjugal rights and the same is also pending for adjudication.
- III. The petitioner/wife further pleaded that, she being a woman, residing separately and depending upon her parents along with her child, at Chinthalapudi, it is very difficult for her to travel at a distance of more than 100 Kms from Chinthalapudi to Tenali, Guntur District, to attend the Court proceedings on each and every adjournment without any male support and that she is constrained to file the present petition seeking to withdraw the D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District and transfer the same to the Judge, Family Court, Eluru, West Godavari District.

3. Learned counsel for the respondent would contend that there are no merits to allow the petition filed by the petitioner/wife and the present Transfer Civil Miscellaneous Petition may be dismissed. He further represented that, if this Court is inclined to transfer the said case from Tenali to Eluru, it may be transferred to Vijayawada, which is more convenient to both the parties. But, in the case on hand, admittedly, none of the parties are residing at Vijayawada.

4. Heard learned counsel appearing on both sides on record.

5. Perused the material available on record.

6. As seen from the material on record, due to the matrimonial disputes between both the spouses, the petitioner/wife has been residing separately along with her female child at her parents' house at Chinthalapudi and the petitioner/wife filed two (2) cases i.e., a Criminal Case under Section 498-A of I.P.C. and under Sections 3 & 4 of the Dowry Prohibition Act, 1961, before the Dharbagudem Police Station, the same is pending for investigation and she also filed a Maintenance Case *vide* M.C.No.1 of 2025 on the file of the Junior Civil Judge, Chinthalapudi, under Section 144 of B.N.S.S Act, 2023, seeking monthly maintenance from the respondent/husband and the same is also pending for adjudication. The material on record further reveals that, the respondent/husband had filed a case i.e., D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District, under Section 32 of

the Indian Divorce Act, 1869, seeking restitution of the conjugal rights and the same is also pending for adjudication.

7. The Apex Court in a case of **N.C.V. AISHWARYA Vs. A.S. SARAVANA KARTHIK SHA¹**, held as follows:

"9. The cardinal principles 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 by the aforesaid case law and on considering the facts and circumstances of the present case that in matrimonial proceedings, the convenience of the wife has to be taken into consideration than that of the inconvenience of the husband. Therefore,

¹ 2022 LiveLaw (SC) 627

I am of the considered view that there are justifiable grounds to consider the request made by the petitioner/wife, seeking to withdraw D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District and transfer the same to the Judge, Family Court, Eluru, West Godavari District.

9. In the result, the Transfer Civil Miscellaneous Petition is **allowed** and D.O.P.No.390 of 2024 on the file of the XI Additional District Judge, Tenali, Guntur District, is hereby withdrawn and transferred to the Judge, Family Court, Eluru, West Godavari District. The learned XI Additional District Judge, Tenali, Guntur District, shall transmit the case record in D.O.P.No.390 of 2024 to the Judge, Family Court, Eluru, West Godavari District, duly indexed as expeditiously as possible preferably within a period of two (02) weeks from the date of receipt of a copy of the order. Both the parties are directed to appear before the Judge, Family Court, Eluru, West Godavari District, on 23.06.2025, at 10.30 a.m.

10. The said D.O.P.No.390 of 2024, was instituted in the year 2024, which is pending before the XI Additional District Judge, Tenali, Guntur District, under Section 32 of the Indian Divorce Act, 1869, seeking restitution of the conjugal rights, the learned Judge, Family Court, Eluru, West Godavari District, is directed to dispose of the matter on merits within six (6) months, from the date of receipt of the record from the XI Additional District Judge, Tenali, Guntur District and as well as from the date of appearance of both the parties. 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/- K J RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XI Addl. District Judge, Tenali, Guntur District.
2. The Judge, Family Court, Eluru, W.G.District.
3. One CC to SRI. CH SRINIVAS Advocate [OPUC]
4. One CC to SRI. KOGANTI NAGESWARA RAO Advocate [OPUC]
5. **Three CD Copies**

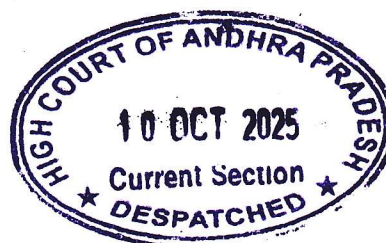
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HIGH COURT

DATED:05/05/2025

ORDER

TRCMP.No.70 of 2025



ALLOWING THE TRCMP