

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

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

PRESENT



THE HONOURABLE SRI JUSTICE V GOPALA KRISHNA RAO

TRANS. CIVIL MISC. PETITION NO: 69 OF 2025

Between:

Shaik Shameez @ Shame, W/o. Shaik Altaf, aged about 50 years, Occ Housewife, R/o. D.No. 1-2-6, Opp. Taiuk Police Station, Tenali, Guntur District, A.P. - 522201.

...Petitioner

AND

Shaik Altaf, S/o. Shaik Malik Aged about 52 years, Occ RMP - Doctor, R/o. D.No. 4-325/B, Govinda Street, Vanamthopu, Sullupeta Town and Mandal, Tirupati District.

...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 O.S.No. prays 118/2024 on the file of the Prl. Junior Civil Judge, Sullurupetaaaa, Tirupathi District and the same may be transferred to the court of 1st Addl. Junior Civil Judge, Tenali, Guntur 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 stay of all further proceedings in O.S.No. 118/2024 on the file of the Prl. Junior Civil Judge, Sullurupetaaa, Nellore District.

The Petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri A V V S N Murthy, Advocate for the Petitioner.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.69 of 2025

ORDER:

Today, when the matter was taken up for hearing, learned counsel for the petitioner submitted that the notice sent to the respondent was personally served on 04.04.2025. He further submitted that the proof of service memo was filed before the Registry under U.S.R. No.49784 of 2025, along with the postal track consignment sheet downloaded from the Postal Department web-site and the same has been placed on record. As per the said postal track consignment sheet, the Registered Notice sent to the respondent by the learned counsel for the petitioner was served. But none appeared for the respondent. Therefore, 'service held sufficient'.

2. 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 O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore District and transfer the same to the I Additional Junior Civil Judge, Tenali, Guntur District, for trial.

3. 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

02.05.2010, at Tenali, as per the Customs of Muslim Law. During their wedlock period, the petitioner and the respondent were blessed with two (2) children. After that, due to the matrimonial disputes between both the spouses, the petitioner/wife has been residing separately along with her two (2) children aged about 13 years & 11 years respectively, at her parents' house at Tenali Town, Guntur District. In view of the harassment made by the respondent/husband, the petitioner/wife lodged a complaint against the respondent/husband and his family members, dated 09.02.2023, in F.I.R.No.25 of 2023, under Section 498-A of I.P.C. and under Sections 3 & 4 of the Dowry Prohibition Act, 1961, before the I Town Police Station, Tenali. After completion of investigation, Police filed a charge sheet and it was numbered as *vide* C.C.No.161 of 2023 on the file of the I Additional Junior Civil Judge, Tenali, Guntur District and she also filed a Maintenance Case *vide* M.C.No.21 of 2023 on the file of the I Additional Junior Civil Judge, Tenali, Guntur District, under Section 125 of Cr.P.C., seeking monthly maintenance from the respondent/husband and the said two (2) cases are pending for adjudication against the respondent/husband herein.

- II. The petitioner/wife further pleaded that to cause unnecessary inconvenience to her, the respondent/husband had filed O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore

District, under Section 26 Order 7 Rule 1 of Civil Procedure Code, 1908, (for 'short the C.P.C'.) seeking dissolution of the marriage and the same is also pending for adjudication.

III. The petitioner/wife further pleaded that, she being a woman, residing separately along with her two (2) children aged about 13 years & 11 years respectively at her parent' house at Tenali Town, Guntur District, it is very difficult for her to travel at a distance of more than 250 Kms from Tenali Town to Sullurupeta to attend the divorce case proceedings on each and every adjournment without any male support and that she is constrained to file the present petition seeking to withdraw the O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore District and transfer the same to the I Additional Junior Civil Judge, Tenali, Guntur District.

4. Heard learned counsel for the petitioner.

5. Though the notice sent to the respondent through Registered Post and was served on him on 04.04.2025, none appeared for the respondent. Therefore, 'service held sufficient'.

6. Perused the material available on record.

7. The material on record *prima facie* goes to show that, due to the matrimonial disputes between both the spouses, the petitioner/wife has been



residing separately at her parents' house along with her two (2) children at Tenali Town, Guntur District and she also filed (2) two cases against the respondent/husband herein i.e., C.C.No.161 of 2023 and M.C.No.21 of 2023 on the file of the I Additional Junior Civil Judge, Tenali, Guntur District, the same are pending for adjudication before the competent Court at Tenali. The material on record further reveals that the respondent/husband has also instituted a case i.e., O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore District, under Section 26 Order 7 Rule 1 of Civil Procedure Code, 1908, (for 'short the C.P.C.) seeking dissolution of the marriage and the same is also pending for adjudication.

8. 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."

9. The Apex Court in a case of **N.C.V. AISHWARYA VS A.S. SARAVANA KARTHIK SHA**², 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

¹(2000) 10 SCC 304

² 2022 LiveLaw (SC) 627

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."

10. On considering the submissions made by the learned counsel appearing for the petitioner and in view of the ratio laid down by the aforesaid case laws 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, I am of the considered view that there are justifiable grounds to consider the request made by the petitioner/wife, seeking to withdraw the O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore District and transfer the same to the I Additional Junior Civil Judge, Tenali, Guntur District.

11. In the result, the Transfer Civil Miscellaneous Petition is **allowed** and O.S.No.118 of 2024 on the file of the Principal Junior Civil Judge, Sullurupeta, Nellore District, is hereby withdrawn and transferred to the I Additional Junior Civil Judge, Tenali, Guntur District. The learned Principal Junior Civil Judge,

Sullurupeta, Nellore District, shall transmit the case record in O.S.No.118 of 2024, to the I Additional Junior Civil Judge, Tenali, Guntur 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. 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/- M PRABHAKAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//



SECTION OFFICER

To,

1. The Principal Junior Civil Judge, Sullurupeta, Nellore District.
2. The I Addl. Junior Civil Judge, Tenali, Guntur District.
3. One CC to Sri. A V V S N Murthy Advocate [OPUC]
- 4. Three CD Copies**

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HIGH COURT

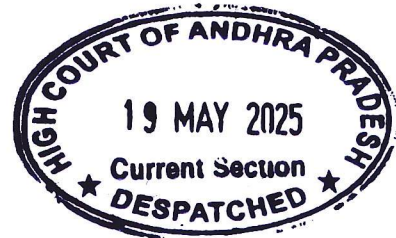
VGKR,J

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DATED:05/05/2025

ORDER

TRCMP.No.69 of 2025



ALLOWING THE TRCMP WITHOUT COSTS