

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY ,THE SEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE



PRESENT

THE HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

TRANS. CIVIL MISC.PETITION NO: 96 OF 2025

Between:

1. Donthu Sudharani, W/o. Pilligolla Siva Sankar, D/o. Donthu Sreeramulu, Aged about 25 years, Occ House wife, Residing at House No. 11-44 Upparapeta, near Panyam Bus stand. Panyam village and Mandal, Nandyal District.

...PETITIONER

AND

1. Pilligoila Siva Sankar, S/o.P.Sivaiah, Aged 32 years, working in Zuari Cement Company safety department engineer, R/o. Door No.3/536-53-2, Sree Ramanjaneyapuram Yerraguntla town and mandal, Kadapa 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 please to withdraw the H.M.O.P. No. 153 of 2023 pending on the file of Hon'ble Senior Civil Judge Hon'ble Civil Judge (Senior Division) at Proddatur, YSR District and transfer the same to any other competent court at Nandyal, Kurnool 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 in H.M.O.P. No. 153 of 2023 pending on the file of Hon'ble Senior Civil Judge / Hon'ble Civil Judge (Senior Division) at Proddatur, YSR District pending disposal of the Main TRCMP

Counsel for the Petitioner : SRI V NITESH

Counsel for the Respondent :

The Court made the following ORDER :

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.96 of 2025

ORDER:

Today when the matter is taken up for hearing, Sri V.Nitesh, learned counsel for the petitioner has represented that the registered notice sent to the respondent was un-served and returned with a postal endorsement "Refused". As per the endorsement of the Registry, the notice sent to the respondent was also returned with an endorsement "Refused". Therefore, service held sufficient. None appeared for the respondent.

2. The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking to withdraw H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District and transfer the same to any other competent Court at Nandyal, Kurnool District.

3. 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 at Kadapa District on 06.05.2022 as per Hindu rites and customs. In view of the matrimonial disputes between both the parties, the petitioner/wife along with a child aged about 2 years are staying at her parents' house at Panyam Village and Mandal, Nandyal District and depending upon the mercy of her parents. The petitioner/wife pleaded that she had lodged a complaint before the Panyam Police Station under Section

498-A r/w 34 IPC and under Sections 3 & 4 of the Dowry Prohibition Act vide Cr.No.136 of 2023 and after filing of the Charge sheet by the concerned Police, the same was numbered as C.C.No.164 of 2024, on the file of the Additional Junior Civil Judge-Cum-Judicial First Class Magistrate, Nandyal. The petitioner further pleaded that she had also filed a Maintenance Case Vide M.C.No.23 of 2024 and a Domestic Violence Case vide D.V.C.No.10 of 2024, on the file of the Judicial First Class Magistrate, Nandyal and the respondent/husband is attending the Court proceedings in the aforesaid cases before the competent Courts at Nandyal District. The petitioner contend that to cause inconvenience to her, the respondent/husband filed H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking for dissolution of marriage.

II. Learned counsel for the petitioner further contended that the petitioner being a woman having a child aged about 2 years, depending upon the mercy of her parents, it is very difficult for her to travel at a distance of more than 100 Kms from Nandyal District to Proddatur without any male support and that she was constrained to file the present petition against the respondent/husband seeking to withdraw H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District and transfer the same to any other competent Court at Nandyal, Kurnool District.

4. Heard Sri V.Nitesh, learned counsel for the petitioner. Though registered notice has been sent to the respondent by the learned counsel for the petitioner, the

same was un-served and returned with a postal endorsement "Refused". Further as per the endorsement of the Registry, the notice sent to the respondent was also returned with an endorsement "Refused", therefore, service held sufficient. None appeared for the respondent. Perused the material available on record.

5. The material on record *prima facie* goes to show that the petitioner/wife has filed a Criminal Case vide C.C.No.164 of 2024, on the file of the Additional Junior Civil Judge-Cum-Judicial First Class Magistrate, Nandyal, a Maintenance Case Vide M.C.No.23 of 2024 and also a Domestic Violence Case vide D.V.C.No.10 of 2024, on the file of the Judicial First Class Magistrate, Nandyal and the respondent/husband is attending the Court proceedings in the aforesaid cases before the competent Courts at Nandyal District. The respondent/husband has filed H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking for dissolution of marriage.

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."

7. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.Saravana Karthik Sha**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,

¹ (2000) 10 SCC 304

² 2022 LiveLaw (SC) 627

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 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 H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District and transfer the same to the Senior Civil Judge Court at Nandyal, Kurnool District.

9. In the result, the present petition is allowed and H.M.O.P.No.153 of 2023, on the file of the Senior Civil Judge, Proddatur, YSR District, is hereby withdrawn and transferred to the Senior Civil Judge Court at Nandyal, Kurnool District. The Senior Civil Judge, Proddatur, YSR District, shall transmit the case record in H.M.O.P.No.153 of 2023 to the Senior Civil Judge Court at Nandyal, Kurnool 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/- K.J.RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

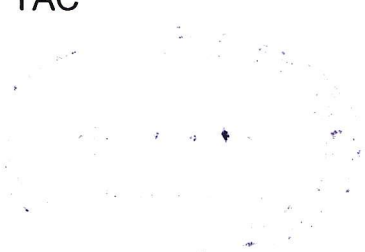

SECTION OFFICER

To

1. The Civil Judge (Senior Division) at Proddatur, YSR Kadapa District
2. The Civil Judge (Senior Division) at Nandyal, Kurnool District.
3. One CC to SRI. V NITESH, Advocate [OPUC]
4. Three CD Copies

Sm

TAC



HIGH COURT

DATED:07/05/2025

ORDER

TRCMP.No.96 of 2025



**ALLOWING THE TRANSFER CIVIL
MISCELLANEOUS PETITION**