

APHC010280042024



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

THURSDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE



PRESENT

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

TRANSFER CIVIL MISCELLANEOUS PETITION No.208 of 2024

Between:

Avula Amaravathi, W/o C. Prudhvi raj, D/o. A. Ankaiah, Aged 34 years,
Hindu, House wife, Ramadevipalli Village, Rapur Mandal, SPSR Nellore
District.

...PETITIONER/RESPONDENT

AND

Chitteti Prudhvi Raj, S/o C. Umapathi, Hindu, Aged about 34 years,
D.No.2-86, Brindavan Colony, Peruru Village, Tirupati Rural Mandal,
Tirupati District.

...RESPONDENT/PETITIONER

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 FCOP No.42 of 2024 pending on the file of the Hon'ble Judge of Family Court at Tirupati, Tirupati District, and the same may be transferred to the Hon'ble Family Court, Nellore, SPSR Nellore District for trial and dispose of the same in accordance with law.

IA NO: 1 OF 2024

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to order Stay of all further proceedings in FCOP No.42 of 2024 pending on the file of Hon'ble Judge, of the Family Court of Tirupati, Andhra Pradesh State pending disposal of the Transfer Civil Miscellaneous Petition.

Counsel for the Petitioner : SRI G VIJAYA SARADHI

Counsel for the Respondent : SRI KANDERI CHETHAN

The Court made the following ORDER :

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO
TRANSFER CIVIL MISCELLANEOUS PETITION No.208 of 2024

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 for withdrawal of F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District and transfer the same to the Judge, Family Court, Nellore, S.P.S.R. Nellore 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/husband and the marriage of the petitioner with the respondent was solemnized on 27.08.2023, at Block No.4, Srinivasa Kalyana Mandapam, Tiruchanoor, Tirupati, according to Hindu Rites and Caste Customs. Later, due to the matrimonial disputes between both the spouses, the petitioner/wife has been residing separately and depending upon the mercy of her parents at Nellore, S.P.S.R. District. The petitioner/wife pleaded that in view of the harassment made by the respondent/husband, she lodged a complaint against the respondent/husband and his family members, dated 17.04.2024, in F.I.R.No.24 of 2024, for the offences punishable under Sections 498-A, 323, 506, 354 & 420 of I.P.C. and under Section 3 & 4 of the Dowry Prohibition

Act, 1961, before Disha Police Station, Nellore and the same is pending for investigation.

ii) The petitioner/wife further pleaded that to cause inconvenience and to harass her, the respondent/husband had filed F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District, under Section 9 of the Hindu Marriage Act, 1955, seeking for restitution of conjugal rights and the same is pending for adjudication.

iii) The petitioner/wife further pleaded that she being a woman, residing separately at her parents' house at Nellore, the distance between the Nellore and Tirupati is more 140Kms and it is very difficult for her to travel to attend the case proceedings on each and every adjournment without any male assistance and that she was constrained to file the present petition seeking for withdrawal of F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District and transfer the same to the Judge, Family Court, Nellore, S.P.S.R. Nellore District.

3. Heard learned counsel appearing on both sides on record.
4. Perused the material available on record.
5. The material on record *prima facie* goes to show that, in view of the matrimonial disputes between both the spouses, the petitioner/wife has been

residing separately and depending upon the mercy of her parents at Nellore. Furthermore, the material on record further discloses that, the respondent/husband has instituted F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District, under Section 9 of the Hindu Marriage Act, 1955, seeking for restitution of conjugal rights and the same is pending for adjudication.

6. The Apex Court in a case of **N.C.V. AISHWARYA VS A.S. SARAVANA KARTHIK SHA**¹, 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.”

7. 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 law and on considering the facts and circumstances of the case, that in matrimonial

¹ 2022 LiveLaw (SC) 627

proceedings, the convenience of the wife has to be taken into consideration than that of the inconvenience of the husband and the petitioner/wife has been residing separately and depending upon the mercy of her parents at Nellore, S.P.S.R. Nellore District, it is very difficult for her to travel from Nellore to Tirupati, without any male assistance and therefore, I am of the considered view that there are justifiable grounds to consider the request made by the petitioner/wife, seeking for withdrawal of F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District and transfer the same to the Judge, Family Court, Nellore, S.P.S.R. Nellore District. Further, it is represented by the learned counsel appearing on both sides that the stage of the case in F.C.O.P.No.42 of 2024, is at recording the cross-examination of the respondent herein i.e., the petitioner in F.C.O.P.No.42 of 2024 and therefore, it is desirable to dispense with the personal appearance of the respondent/husband herein i.e., the petitioner in F.C.O.P.No.24 of 2024 on the file of the Family Judge-cum-VIII Additional District Judge, Ongole, Prakasam District, before the transferee Court, except on the days when his personal appearance is required before the said Court as per law.

8. In the result, the Transfer Civil Miscellaneous Petition is **allowed** and F.C.O.P.No.42 of 2024 on the file of the Judge, Family Court, Tirupati, Chittoor District, is hereby withdrawn and transferred to the Judge, Family Court, Nellore, S.P.S.R. Nellore District. The learned Judge, Family Court, Tirupati, Chittoor District, shall transmit the case record in F.C.O.P.No.42 of 2024, to the Judge, Family Court, Nellore, S.P.S.R. Nellore District, duly indexed as expeditiously as

possible preferably within a period of one (01) week from the date of receipt of a copy of the order. Both the parties are directed to appear before the Judge, Family Court, Nellore, S.P.S.R. Nellore District, on 15.09.2025, at 10.30 a.m. Later the learned Judge, Family Court, Nellore, S.P.S.R. Nellore District, is hereby directed not to insist for the personal appearance of the respondent herein i.e., the petitioner in F.C.O.P.No.42 of 2024, as long as his counsel is attending the Court proceedings and representing the case except on the day when his cross-examination is required to be recorded or on any other day when his personal appearance is specifically required as directed by the learned Judge, Family Court, Nellore, S.P.S.R. Nellore District. 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/- SK.MOHAMMED RAFI
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To

1. The Judge, Family Court, Tirupati, Chittoor District.
2. The Judge, Family Court, Nellore, SPSR Nellore District.
3. One CC to Sri G Vijaya Saradhi, Advocate [OPUC]
4. One CC to Sri Kanderi Chethan, Advocate [OPUC]
5. Avula Amaravathi, W/o C. Prudhvi raj, D/o. A. Ankaiah, Aged 34 years, Hindu, House wife, Ramadevipalli Village, Rapur Mandal, SPSR Nellore District.
6. Chitteti Prudhvi Raj, S/o C. Umapathi, Hindu, Aged about 34 years, D.No.2-86, Brindavan Colony, Peruru Village, Tirupati Rural Mandal, Tirupati District.
7. Two CD Copies

TK

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HIGH COURT
DATED:07/08/2025

ORDER
TRCMP No.208 of 2024

ALLOWING THE TRANSFER CIVIL
MISCELLANEOUS PETITION

