

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3317 OF_2011
(Arising out of Special Leave Petition (C) No.27694 of 2010)

K. Indira ... Appellant

Versus

K. Jnana Krishna Prasad ... Respondent

O R D E R

1. Leave granted.
2. Having failed to persuade the learned Single Judge of the Andhra Pradesh High Court to entertain her prayer for transfer of the petition filed by the respondent under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 pending in the Court of Civil Judge (Senior Division), Mangalagiri, District Guntur to the Family Court at Hyderabad, the appellant has filed this appeal.
3. The parties were married on 24.2.2008 at Tirumala Tirupathi Devasthanam, Tirumala. After about one year, the respondent filed petition in the Court of Civil Judge (Senior Division), Mangalagiri for dissolution of marriage on the ground of cruelty.
4. On being noticed by the concerned Court, the appellant filed a petition under Section 24 of the Code of Civil Procedure, 1908 for transfer of the case to Family Court at City Civil Court, Hyderabad by stating that on account of acute financial stringency and family difficulty she was not in a position to travel from the place of residence i.e. Kukatpally to Mangalagiri. She pleaded that her father had died and her mother, who had undergone two operations, was confined to bed and that it was not possible for her to travel to Mangalagiri to attend the proceedings of the petition filed by the respondent because there was no one to look after her ailing mother.

The learned Single Judge of the High Court rejected the appellant's prayer only on the ground that she had been attending the Court at Mangalagiri on each and every date of hearing and the respondent can be directed to pay travelling and other expenses as and when the appellant is required to attend the proceedings of the case.

5. Notice has been duly served upon the respondent but he has not appeared to contest the appeal.

6. We have heard learned counsel for the appellant and considered the grounds on which the appellant had sought for transfer of the case from the Court of Civil Judge (Senior Division), Mangalagiri, District Guntur to the Family Court at Hyderabad.

7. Before the High Court, the respondent had not controverted the appellant's assertion about the state of health of her mother and lack of any source of income. Notwithstanding this, the learned Single Judge declined the appellant's prayer thinking that if the respondent is asked to bear the expenses of the appellant's travelling from Kukatpally to Mangalagiri, then she will have no difficulty in attending the proceedings at Mangalagiri.

8. In our view, the approach adopted by the learned Single Judge was not at all conducive to the idea of justice. The balance of convenience was clearly in favour of the appellant and the learned Single Judge should have ordered transfer of the case by taking cognizance of the fact that due to the death of her father and lack of financial resources, the appellant was not in a position to frequently travel to a distant place for attending the proceedings of the case filed by the respondent and that to by leaving her ailing mother, who had already undergone two surgeries.

9. In the result, the appeal is allowed. The impugned order is set aside and H.M.O.P. No.21 of 2009 titled "K. Jnana Krishna Prasad v. K. Indira" pending in the Court of Civil Judge (Senior Division), Mangalagiri, District Guntur, is transferred to the Family Court at Hyderabad.

.....J

[G.S. Singhvi]

.....J.

[Asok Kumar Ganguly]

New Delhi;
April 15, 2011.
ITEM NO.43

COURT NO.11

SECTION XIIA

Petition(s) for Special Leave to Appeal (Civil) No(s).27694/2010

(From the judgement and order dated 31/05/2010 in TCMP No.
617/2009 of The HIGH COURT OF A.P AT HYDERABAD)

K.INDIRA Petitioner(s)

VERSUS

K.JNANA KRISHNA PRASAD Respondent(s)

(With prayer for interim relief and office report)

Date: 15/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. T.N. Rao, Adv.
Ms.K.Sarda, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed. The impugned order is set aside
and H.M.O.P. No.21 of 2009 titled "K. Jnana Krishna Prasad v. K.
Indira" pending in the Court of Civil Judge (Senior Division),
Mangalagiri, District Guntur, is transferred to the Family Court
at Hyderabad.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)