



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3397]

TUESDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA
KRISHNA RAO**

TRANS. CIVIL MISC.PETITION NO: 36/2025

Between:

1. NALLAMOLU RAJARAJESWARI,, W/O. MOHAN MURALI, AGED ABOUT 39 YEARS, R/O. D. NO. 35-5-95(A), BHARATHA JATEEYA VYAYAMA KALASALA, OPP- CSR SARMA COLLEGE, ONGOLE, PRAKASAM DISTRICT

...PETITIONER

AND

1. NALLAMOLU MOHANA MURALI, S/o. Sambasiva Rao, aged 43 years R/o. Peteru Village, Repalle Mandal, Guntur 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 may be pleased to withdraw and transfer the H.M.O.P No. 81/2020 pending on the file of the Senior Civil Judge Repalle, Guntur District to the court of Additional Senior Civil Judge Ongole, Prakasam District and to pas

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 may be pleased to grant stay of all further proceedings in HMOP No. 81 of 2020 on the file of Senior Civil Judge Court ::Repalle, Guntur District, Andhra Pradesh pending disposal of the above Transfer Civil Miscellaneous petition and pass

IA NO: 2 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 may be pleased to modify the order dt. 15-02-2025 in I.A No. 1/2025 in TRCMP No. 36/2025 by replacing there shall be an interim stay on all further proceedings including the appearance of the petitioner herein i.e., the respondent in H.M.O.P No. 81 of 2024, on the file of the senior Civil Judge, Repalle, till 24-03-2025 by there shall be an interim stay on all further proceedings including the appearance of the petitioner herein i.e., the respondent in H.M.O.P No. 81 of 2020, on the file of the senior civil judge, Repalle till 24-03-2025 in the said order in the interest of justice and pass

Counsel for the Petitioner:

1. PAVAN KUMAR PASUPULETI

Counsel for the Respondent:

1.ARUN SHOWRI G

The Court made the following:

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 H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District and transfer the same to the file of the Additional Senior Civil Judge, Ongole, Prakasam District, for trial and disposal of the same.

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

I. The petitioner is the legally wedded wife of the respondent/husband, and their marriage was solemnized on 20.02.2011, as per Hindu rites and caste customs. During their wedlock, the petitioner/wife and the respondent/husband were blessed with two (02) children. Thereafter, due to matrimonial disputes between the parties, the petitioner/wife has been residing separately along with her two (2) children aged about 13 & 10 years respectively in her parents' house at Ongole, Prakasam District. The petitioner/wife further pleaded that she filed a Maintenance Case *vide* M.C.No.8 of 2021 on the file of the Judge, Family Court, Ongole, under Section 125 of Cr.P.C., seeking maintenance from the respondent/husband and the same is pending for adjudication.

II. The petitioner/wife further pleaded that with a view to cause inconvenience to her, the respondent/husband herein filed a divorce petition *vide* H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955, for seeking for dissolution of the marriage, the same is also pending for adjudication.

3. Learned counsel for the petitioner would contend that the petitioner herein being a woman, has been residing separately along with her two (2) children aged about 13 & 10 years respectively and the children are prosecuting their studies while residing with their mother/petitioner herein at Ongole. He further submitted that the distance between Repalle & Ongole is more than 100Kms and it is very difficult for the petitioner/wife to travel to attend the divorce case proceedings filed by the respondent/husband before the Court at Repalle without any male assistance, and that she was constrained to file the present petition against the respondent/husband, seeking for withdrawal of H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, and transfer the same to the file of the Additional Senior Civil Judge, Ongole, Prakasam District, for trial and disposal of the same.

4. Learned counsel for the respondent submitted that there are no merits in the petition filed by the petitioner/wife herein and with an intention to drag on the case proceedings in H.M.O.P.No.81 of 2020 on the file of the Senior

Civil Judge, Repalle, the petitioner/wife herein filed the petition and the present Transfer Civil Miscellaneous Petition may be dismissed. He further submitted that the respondent/husband herein is a private employee and he frequently travels to Hyderabad to attend his duties.

5. Heard Mr. Pavan Kumar Pasupuleti, learned counsel for the petitioner and Mr. G. Arun Showri, learned counsel for the respondent.

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 parties, the petitioner/wife has been residing separately along with her two (02) children at Ongole, Prakasam District. It is also not in dispute that the respondent/husband herein has filed a divorce petition *vide* H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955, seeking for dissolution of the marriage, the same is also pending for adjudication. It is admitted by both the learned counsel on record that the respondent/husband herein has filed his chief affidavit in H.M.O.P.No.81 of 2020 and his evidence in cross-examination has not yet commenced before the trial Court.

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.”

¹(2000) 10 SCC 304

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 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, 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.”

10. 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 laws and on considering the facts and circumstances of the present case, I am of the considered view that in matrimonial proceedings, the convenience of the wife has to be taken into consideration than that of the inconvenience of the husband. Therefore, there are justifiable grounds to consider the request made by the petitioner/wife, seeking for withdrawal of H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, and transfer the same to the file of the Judge, Family Court, Ongole, Prakasam District. Further, on considering the submissions made by the learned counsel for the respondent that the respondent herein is a Private

² 2022 LiveLaw (SC) 627

Employee, therefore, the personal appearance of the respondent herein *i.e.*, the petitioner in H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, has been dispensed with before the transferee Court, except on the days when his personal appearance is required before the said Court as per law.

11. In the result, the Transfer Civil Miscellaneous Petition is **allowed** and the H.M.O.P.No.81 of 2020 on the file of the Senior Civil Judge, Repalle, Guntur District, is hereby withdrawn and transferred to the file of the Judge, Family Court, Ongole, Prakasam District. The learned Senior Civil Judge, Repalle, Guntur District, shall transmit the entire case record in H.M.O.P.No.81 of 2020, to the file of the Judge, Family Court, Ongole, Prakasam District, duly indexed as expeditiously as possible preferably within a period of five (05) days from the date of receipt of a copy of the order. Since the H.M.O.P.No.81 of 2020 was instituted in the year 2020, before the learned Senior Civil Judge, Repalle, Guntur District, seeking for dissolution of the marriage and more than five (5) years have elapsed, therefore, I am of the considered view it is desirable to direct the learned Judge, Family Court, Ongole, Prakasam District, to dispose of the main case itself within a period of four (04) months from the date of appearance of both parties. Both the parties are directed to appear before the learned Judge, Family Court, Ongole, Prakasam District on 09.03.2026 at 10.30 A.M. Later, the transferee Court *i.e.*, Judge, Family Court, Ongole, Prakasam District, is hereby directed not to insist for the personal appearance of the respondent herein *i.e.*, petitioner in

H.M.O.P.No.81 of 2020, as long as his counsel is attending the Court proceedings and representing the case except on the day his cross-examination is required to be recorded or on any other day when his personal appearance is required as directed by the learned Judge, Family Court, Ongole, Prakasam 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.

JUSTICE V. GOPALA KRISHNA RAO

Date: 03.02.2026

NOTE:

Issue C.C. By

04.02.2026

B/o

CVD