

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.685 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.10 of 2014 from the file of the Senior Civil Judge Court, Razole, East Godavari District, and transfer the same to Family Court-cum-V Additional District Court, Visakhapatnam.

2. Heard both counsels and perused the affidavit filed in support of the petition and the counter.

3. The marriage of the petitioner was performed with the respondent on 05.12.2012 at Visakhapatnam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent filed O.P.No.10 of 2014 on the file of the Senior Civil Judge Court, Rajole, for restitution of conjugal rights. Unfortunately bad weather prevailed in the family life of the petitioner and the respondent.

4. The petitioner has been residing at her parents house in Visakhapatnam. It is not uncommon to make allegations and counter allegations against each other in matrimonial cases for obvious reasons. If this Court expresses any opinion with regard to the allegations and counter allegations made by the parties to the proceedings, the same may cause prejudice to one of the parties at the time of trial. This Court is not inclined to express any opinion on the allegations and counter allegations made by the parties in view of scope of transfer petition as well in the interest of both parties. It is an admitted fact that the distance between Razole and Visakhapatnam is around 250 kilometers. Learned counsel for the respondent submitted that at present the respondent is working as a software engineer in Hyderabad. The petitioner has to come from Hyderabad, the respondent has to come from Visakhapatnam to Razole in order to prosecute O.P.No.10 of 2014. While deciding the petitions of this nature, the Court has to take into consideration the ground realities as well as the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife and children.

5. As per the principle enunciated in **Sumita Singh v. Kumar Sanjay, Rachna Kanodia v. Anuk Kanodia** and **V.Sailaja v V.Koteswara Rao** the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is a fit case to allow the petition.

7. As rightly pointed out by the learned counsel for the respondent, the respondent may face some difficulty to attend the Family Court-V Additional District Court, Visakhapatnam, on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.10 of 2014 is withdrawn from the file of the Senior Civil Judge Court, Razole, East Godavari District, and transferred to the file of Family Court-cum-V Additional District Court, Visakhapatnam, for disposal in accordance with law. The presence of the respondent/husband before the Family Court-cum-V Additional District Court, Visakhapatnam in connection with O.P.No.10 of 2014, on each and every date of adjournment, is hereby dispensed with. However, he shall appear before the Family Court-cum-V Additional District Court, Visakhapatnam, as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

09.09.2015.

Rns