

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.158 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw O.P.No.4 of 2014 from the file of Senior Civil Judge's Court, Proddatur and transfer the same to Family Court, Nellore.

2 The learned counsel for the petitioner submitted that the petitioner and the respondent lived together at Nellore for a long time, and hence the O.P.No.4 of 2014 may be transferred to Nellore.

3 On the other hand, the learned counsel for the respondent submitted that the petitioner filed the present petition with an ulterior motive to harass the respondent.

4 As per the averments made in the petition, the marriage of the petitioner was performed with the respondent on 20.05.1995 at Nellore as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with three children. Unfortunately in the month of July 2014 disputes arose between the parties. The respondent filed O.P.No.4 of 2014 on the file of the Senior Civil Judge's Court at Proddatur for restitution of conjugal rights.

5 It is an admitted fact that the petitioner and the respondent lived together for a period of four months at Nellore. Now, because of the disputes, the petitioner has been residing at her parents' house along with her three children at Nellore. It may not be possible for the petitioner to travel all the way from Nellore to Proddatur along with her three children to defend the O.P. filed by the respondent. The material available on record prima facie establishes that the petitioner and the respondent lived together for a long time at Nellore. If the petition is not allowed, it will certainly cause untold hardship to the petitioner. The court has to take into consideration the inconvenience likely to be caused to the wife. Even if the petition is allowed, the

same may not cause any prejudice or hardship to the respondent.

6 As per the principle laid down in ***Sumita Singh Vs. Kumar Sanjay, Rachna Kanodia Vs. Anuk Kanodia***, and ***V. Sailaja Vs. V. Koteswara Rao***, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 the petitioner deserves the relief as sought for.

7 In the result, the petition is allowed and O.P.No.4 of 2014 pending on the file of the Senior Civil Judge's Court, Proddatur is withdrawn from the file of the said Court and the same is transferred to the Family Court at Nellore for disposal in accordance with law. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 16.06.2015

Kvsn