

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.217 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.60 of 2015 from the file of the Family Court, L.B.Nagar, Ranga Reddy District and transfer the same to the Family Court-cum-III Additional District Judge at Warangal to be tried along with O.P.No.79 of 2015.

2. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, I am inclined to dispose of the matter on merits in the absence of the respondent.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. The marriage of the petitioner was performed with the respondent on 06.11.2011 at Mayuri Gardens, near NIT (REC) Kazipet, Warangal Town and District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with a son. The respondent filed O.P. No.60 of 2015 on the file of the Family Court, L.B. Nagar, Ranga Reddy District for restitution of conjugal rights._

5. Due to misunderstandings, the petitioner has been residing at her parents' house at Warangal along with her son. The distance between Warangal and Hyderabad is 140 KMs. It may not be possible for the petitioner to travel 140 KMs in order to prosecute O.P.No.60 of 2015 at Hyderabad. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself, her son and to travel from Warangal to Hyderabad. If the petition is dismissed, it may cause untold hardship to the petitioner. Even if the petition is allowed,

the same may not cause any prejudice to the respondent. While disposing of the petitions of this nature, the Court has to take into consideration the ground realities as well as the hardship likely to be caused to the wife.

6. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[3], 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 case cited supra, I am of the considered view that the relief sought by the petitioner can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.60 of 2015 is withdrawn from the file of the Family Court, L.B.Nagar, Ranga Reddy District and transferred to the Family Court-cum-III Additional District Judge at Warangal for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand -closed.

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T.SUNIL CHOWDARY, J.

Date: 07.07.2015.

Gv/

^[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

^[2] AIR 2002 SC 396

^[3] 2001 (7) Supreme 96