

**THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

TRANSFER CIVIL MISCELLANEOUS PETITION No.386 of 2015

**ORDER:**

This petition is filed under Section 24 CPC to withdraw H.M.O.P. No.365 of 2015 from the file of the Family Court, City Civil Courts, Hyderabad and transfer the same to the file of Family Court, Visakhapatnam, for trial and disposal in accordance with law.

2. Heard the learned counsel for both the parties and perused the material available on record.

3. The marriage of the petitioner was performed with the respondent on 06.5.2008 at Visakhapatnam as per Hindu rites and caste customs. After the marriage, the petitioner joined the respondent to lead marital life. Out of the lawful wedlock, they were blessed with a son. The petitioner filed F.C.O.P. No.888 of 2015 on the file of Family Court, Visakhapatnam for restitution of conjugal rights. The respondent filed H.M.O.P. No.365 of 2015 on the file of Family Court, City Civil Courts, Hyderabad, for dissolution of the marriage between him and the petitioner.

4. The petitioner has been residing at her parents' house at Visakhapatnam along with her son, due to misunderstandings between her and the respondent. The distance between Visakhapatnam and Hyderabad is about 600 KMs. The petitioner may face difficulty to attend the Family Court at Hyderabad without assistance of one of the male members of the family. Invariably the respondent has to attend the Family Court at Visakhapatnam in view of pendency of F.C.O.P. No.888 of 2015. While deciding the petitions of this nature, the court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings more particularly to the wife and children.

5. As per the principle enunciated in **Sumita Singh v. Kumar**

**Sanjay**<sup>[1]</sup> and **Rachna Kanodia v. Anuk Kanodia**<sup>[2]</sup>, 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 relief sought by the petitioner can be granted. Even if the presence of the respondent–husband before the trial court is dispensed with, no prejudice will be caused to the petitioner.

6. In the result, the transfer petition is allowed. H.M.O.P. No.365 of 2015 is withdrawn from the file of the Family Court, City Civil Court, Hyderabad and transferred to the file of Family Court, Visakhapatnam, for trial and disposal in accordance with law. The presence of the respondent–husband before the Family Court, Visakhapatnam in connection with H.M.O.P. No.365 of 2015 on each and every date of adjournment is hereby dispensed with. However, he shall appear before the trial court as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

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**T.SUNIL CHOWDARY, J**

Date: 28.08.2015.  
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<sup>[1]</sup> AIR 2002 SC 396

<sup>[2]</sup> 2001 (7) Supreme 96