

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.360 of 2015

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw H.M.O.P.No.141 of 2014 from the file of Senior Civil Judge Court, Bapatla, Guntur District and transfer the same to the Family Court, City Civil Court, Hyderabad.

2. Heard the learned counsel for both the parties and perused the affidavit filed in support of the transfer petition and the counter filed on behalf of the respondent.

3. The marriage of the petitioner was performed with the respondent on 16.2.1997 at Bhimavaram, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of the lawful wedlock, they were blessed with two children. The respondent filed H.M.O.P. No.141 of 2014 on the file of Senior Civil Judge Court, Bapatla for restitution of conjugal rights.

4. The petitioner has been residing in Hyderabad along with her children. She may face difficulty to travel 300 KMs from Hyderabad to Bapatla in order to prosecute H.M.O.P. No.141 of 2014 in view of nature of her employment. 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**^[1] and **Rachna Kanodia v. Anuk Kanodia**^[2], 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.

6. As rightly pointed out by the learned counsel for the respondent, the respondent may face some difficulty to attend the Family Court, City Civil Court, Hyderabad 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.

7. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.141 of 2014 is withdrawn from the file of the Senior Civil Judge Court, Bapatla and transferred to the file of Family Court, City Civil Court, Hyderabad, for disposal in accordance with law. The Family Court, City Civil Court, Hyderabad is hereby directed to dispense with the presence of the respondent–husband in connection with H.M.O.P. No.141 of 2014, on each and every date of adjournment. 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.

T. SUNIL CHOWDARY, J

Date: 29.10.2015

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[\[1\]](#) AIR 2002 SC 396

[\[2\]](#) 2001 (7) Supreme 96