

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.232 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.111 of 2013 from the file of the Senior Civil Judge Court, Rajahmundry, East Godavari District and transfer the same to the Family Court, Vijayawada, Krishna District.

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

3. The marriage of the petitioner was performed with the respondent on 03.03.1994 at Vijayawada, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with two children. The petitioner filed MC No.31 of 2014 on the file of the Family Court, Vijayawada seeking maintenance from the respondent. The petitioner also filed O.P.No.56 of 2014 on the file of the Family Court, Vijayawada for restitution of conjugal rights. The respondent filed O.P. No.111 of 2013 on the file of the Senior Civil Judge, Rajahmundry for dissolution of the marriage between him and the petitioner._

4. The petitioner has been residing at her parents' house along with her two children at Vijayawada due to disputes between her and the respondent. It may not be possible for the petitioner to travel from Vijayawada to Rajahmundry along with her two children without the assistance of some male member of the family. Invariably, the respondent has to attend the Family Court, Vijayawada in view of pendency of O.P.No.56 of 2014 and MC No.31 of 2014. 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.

5. 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.

6. As rightly pointed out by the learned counsel for the respondent it may not be possible for the respondent to attend the Family Court at Vijayawada in O.P.No.111 of 2013 on each and every date of adjournment in view of his nature of employment. Even if the presence of the respondent is dispensed with no prejudice would be caused to the petitioner.

7. For these reasons, O.P.No.111 of 2013 is withdrawn from the file of the Senior Civil Judge Court, Rajahmundry and transferred to the Family Court, Vijayawada, Krishna District. The Family Court, Vijayawada is hereby directed to dispense with the presence of respondent/husband for each and every date of adjournment. However, the respondent shall appear as and when the Court feels that his presence is so required.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. As a sequel, miscellaneous petitions, if any pending in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 16.07.2015.

Gv/

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

[\[2\]](#) AIR 2002 SC 396

[\[3\]](#) 2001 (7) Supreme 96