

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Tr.C.M.P.No.820 of 2014

Between:

Eda Siva Leela, W/o Sambayya ... Petitioner
and

Eda Sambayya, S/o Nagayya.
... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 12-08-2015

SUBMITTED FOR APPROVAL:

THE HON’BLE SRI JUSTICE T.SUNIL CHOWDARY

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.820 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.772 of 2014 from the file of the Family Court, Visakhapatnam and transfer the same to the Senior Civil Judge Court, Avanigadda, Krishna District.

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

3. The marriage of the petitioner was performed with the respondent, in the year 2012 at Annavaram temple, 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 2 daughters. Basing on the complaint lodged by the petitioner, the Station House Officer, Ghantasala registered a case in Crime No.163 of 2014 for the offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act. The respondent filed H.M.O.P. No.772 of 2014 on the file of the Family Court, Visakhapatnam for restitution of conjugal rights._

4. The petitioner has been residing at her parents' house along with her 2 daughters.

5. At the time of arguments, both the counsel submitted that the petitioner is suffering with ill health. The distance between Ghantasala and Visakhapatnam is around 450 KMs. It may not be possible for the petitioner to travel 450 KMs without the assistance of one of the male members of the family in view of her health condition. Invariably, the respondent has to attend the Criminal Court at Avanigadda in view of pendency of Crime No.163 of 2014. If the petition is dismissed, it may

cause untold hardship to the petitioner and her children. 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. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with on each and every date of adjournment before the Senior Civil Judge Court at Avanigadda in H.M.O.P.No.772 of 2014. Even if the presence of the respondent is dispensed with no prejudice would be caused to the petitioner.

7. For these reasons, H.M.O.P.No.772 of 2014 is withdrawn from the file of the Family Court, Visakhapatnam and transferred to the Senior Civil Judge Court, Avanigadda, Krishna District. The presence of the respondent before the Senior Civil Judge Court, Avanigadda is dispensed with on 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. The Senior Civil Judge, Avanigadda is hereby directed to dispose of H.M.O.P.No.772 of 2014, as expeditiously, as possible, preferably, within a period of six (06) months from the date of commencement of the trial. No costs.

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

-

T.SUNIL CHOWDARY, J.

Date: 12.08.2015.

Gv/

-

-

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

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

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