

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER C.M.P. No.542 of 2015

ORDER:

_____ This petition is filed under Section 24 of C.P.C. to withdraw O.P.No.62 of 2014 from the file of the Senior Civil Judge Court, Piler, Chittoor District and transfer the same to the file of the Family Court, Nellore.

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

3. _____ In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to dispose of the matter on merits in the absence of the respondent.

4. _____ The marriage of the petitioner was performed with the respondent on 01.11.2012 at Tirupati, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with a son. The petitioner filed F.C.M.C.No.63 of 2015 on the file of the Family Court, Nellore seeking maintenance from the respondent. The respondent filed O.P.No.62 of 2014 on the file of the Senior Civil Judge Court, Piler for restitution of conjugal rights.

5. _____ The petitioner has been residing at her parents' house in Nellore along with her son. The distance between Nellore and Piler is around 220 kilometers. The petitioner may face some difficulty to travel from Nellore to Piler in order to prosecute O.P.No.62 of 2014. Invariably, the respondent has to attend the Family Court, Nellore in view of pendency of F.C.M.C.No.63 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. _____

6. As per the principle enunciated in **T.Gayatri Devi v.**

Dr. Tallepaneni Sreekanth^[1], **Rachna Kanodia v. Anuk**
Kanodia^[2] and **Sumita Singh v. Kumar Sanjay and another**^[3],
the paramount consideration, in transfer of matrimonial cases, is the
convenience of the wife.

7. 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 deserves to be allowed.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.62 of 2014 is withdrawn from the file of the Senior Civil Judge Court, Piler, Chittoor District and transferred to the file of the Family Court, Nellore for disposal in accordance with law. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 28.10.2015

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^[1] 2013 (6) ALT 42 (SC)

^[2] 2001 (7) Supreme 96

^[3] AIR 2002 SC 396