

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.517 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw M.O.P.No.17 of 2014 from the file of the Senior Civil Judge, Allagadda, Kurnool District and transfer the same to the file of the Senior Civil Judge Court, Proddatur, Kadapa District, for disposal in accordance with law.

2. The facts leading to filing of the present petition are briefly as follows: The marriage of the petitioner was performed with the respondent on 26.07.2002 in Padmavathi Kalyana Mandapam of Prodduturu town as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead happy marital life. Out of their lawful wedlock, they were blessed with two daughters aged about 10 years and 8 years. As per the allegations made in the complaint, the respondent necked out the petitioner from matrimonial home without any justifiable reason. The respondent filed MOP No.17 of 2014 on the file of Senior Civil Judge, Allagadda for dissolution of marriage. The petitioner vehemently opposed the petition filed by the respondent. Hence the petition.

3. Learned counsel for the petitioner submitted that the petitioner is not in a position to attend the Court at Prodduturu with her two minor daughters. He further submitted that the petitioner is not having any means to attend the Court at Proddutur. Learned counsel for the respondent, on the other hand, submitted that the petitioner filed the present petition with an ulterior motive.

4. A perusal of the record clearly reveals that the petitioner and the respondent were blessed with two daughters, aged about 10 years and 8 years respectively, out of their lawful wedlock. Disputes arose between the petitioner and the respondent when the respondent was working as a lecturer in a private college at Tirupathi. Due to the family disputes, the petitioner has been residing in Proddutur along with her parents. It is an admitted fact that the petitioner's parents belongs to Proddutur, whereas the respondent is a resident of Bijanavemula village of Koilakuntla Mandal of Kurnool District. In this type of petitions, the court has to take into consideration

the ground realities as well as the hardship likely to be caused to the parties to the proceedings. It is not the case of the respondent that the petitioner is having sufficient means to prosecute the case at Allagadda. Both the counsel submitted that the distance between Allagadda and Proddatur is nearly 60 kms. It is not possible for the petitioner to attend the Court at Allagadda on each and every date of adjournment without the assistance of some male person. The petitioner has to spend some amount to travel from Proddatur to Allagadda more particularly with her two minor daughters.

6. At this juncture, learned counsel for petitioner has drawn the attention of this court to the decision in **V.Sailaja v V.Koteswara Rao**. Para 8 of the said decision reads as follows:

8. Having heard the learned Counsel for both parties and having due regard to the law laid down by the Apex Court in these matters, I am of the considered view that in matters concerning the transfer of matrimonial cases, it is the convenience of the wife which has to be taken into consideration by the Courts (see **Rachna Kanodia v. Anuk Kanodia**, 2001 (7) Supreme 96, and **Sumita Singh v. Kumar Sanjay**, AIR 2002 SC 396). Thus, in view of the law laid down by the Apex Court in the aforementioned cases, the O.P. filed by the respondent (husband) i.e., O.P. No. 416 of 2000 deserves to be transferred from the file of the Family Court, Vijayawada, to the Senior Civil Judge's Court, Vizianagaram, where the O.P. filed by the petitioner for restitution of conjugal rites is pending.

As per the principle enunciated in the case cited supra, the court has to take into consideration the inconvenience likely to be caused to the wife while deciding transfer petitions.

7. 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 it is a fit case to transfer M.O.P.No.17 of 2014 from the file of the Senior Civil Judge Court, Proddatur, Kadapa District, to the file of the Senior Civil Judge Court, Proddatur.

8. Accordingly, the Transfer Miscellaneous Petition is allowed. M.O.P.No.17 of 2014 is withdrawn from the file of the Senior Civil Judge Court, Proddatur, Kadapa District and transferred to the file of the Senior Civil Judge Court, Proddatur, for disposal in accordance with law. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 03.06.2015.

Rns