

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.242 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.374 of 2014 from the file of the Judge, Family Court, City Civil Court, at Hyderabad, and transfer the same to the file of the Senior Civil Judge, Nuzvid, Krishna District, for disposal in accordance with law.

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

3. The marriage of the petitioner was performed with the respondent on 05.08.2012 at Saibaba Temple, Angaluru village, Krishna District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a daughter. The respondent filed O.P.No.374 of 2014 on the file of the Family Court, City Civil Court, Hyderabad, for restitution of conjugal rights. The petitioner has been residing at her parents house in Krishna District, along with her daughter. The respondent also belongs to Gudiwada of Krishna District. The distance between Nuzvid and Hyderabad is more than 200 kilometers. It may not be possible for the petitioner to travel from Nuzvid to Hyderabad along with her 1 ½ year daughter. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself and to travel from Nuzvid to Hyderabad. Even if the petition is allowed, the same may not cause any prejudice to the respondent. 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, the wife.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Rachna Kanodia v. Anuk Kanodia**^[2], and **Sumita Singh v. Kumar Sanjay**^[3], the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am inclined to allow the petition by granting the relief sought for. Learned counsel for the respondent submitted that the respondent has been working as Head-constable in Special Battalion Police at Hyderabad and it may not be possible for the respondent to attend the Court at Nuzvid, on each and every date of adjournment. As rightly pointed out by the learned counsel for the respondent, it may not be possible for the respondent to take leave frequently in view of his employment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.374 of 2014 is withdrawn from the file of the Family Court, City Civil Court, Hyderabad, and transferred to the file of the Senior Civil Judge, Nuzvid, Krishna District, for disposal in accordance with law. The presence of the respondent/husband is hereby dispensed with in O.P.No.374 of 2014 on the file of the Senior Civil Judge Court, Nuzvid, Krishna District, on each and every date of adjournment. However, the respondent/husband shall appear before the Senior Civil Judge, Nuzvid, Krishna District, as and when his presence is so required. As a sequel,

miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date:01.07.2015.
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[\[1\]](#) AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441
[\[2\]](#) 2001(7) Supreme 96
[\[3\]](#) AIR 2002 SC 396