

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.548 of 2015

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.42 of 2015 from the file of Additional Senior Civil Judge Court, Anantapur and transfer the same to the file of IV Additional District Court-cum-Family Court, Kurnool.

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

3. The marriage of the petitioner was performed with the respondent on 07.5.2009 at Anantapur 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 one daughter, who is now aged about five (5) years. The respondent filed F.C.O.P. No.42 of 2015 on the file of the Additional Senior Civil Judge Court, Anantapur for dissolution of the marriage between him and the petitioner.

4. The petitioner has been residing at her parents' house in Kurnool along with her daughter, due to misunderstandings between her and the respondent. Even as per the averments made in F.C.O.P. No.42 of 2015, the petitioner hails from Kurnool. The distance between Kurnool and Anantapur is around 150 KMs. The petitioner may face difficulty to travel from Kurnool to Anantapur without the assistance of one of the male members of the family. 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

to the wife and children.

5. As per the principle enunciated in **Sumita Singh v. Kumar Sanjay**^[1] and **Rachna Kanodia v. Anuk Kanodia**^[2], 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 cases 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, the respondent may face some difficulty to attend the Family Court, Kurnool on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P. No.42 of 2015 is withdrawn from the file of the Additional Senior Civil Judge Court, Anantapur and transferred to the file of IV Additional District Court-cum-Family Court, Kurnool, for disposal in accordance with law. The Family Court, Kurnool is hereby directed to dispense with the presence of the respondent–husband in connection with F.C.O.P. No.42 of 2015, on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 30.10.2015
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^[1] AIR 2002 SC 396

^[2] 2001 (7) Supreme 96