

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.223 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw F.C.O.P.No.1205 of 2014 from the file of the Family Court, City Civil Court, Hyderabad, and transfer the same to the Family Court, Kurnool.

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

3. The marriage of the petitioner was performed with the respondent on 25.10.2012 at Jammalamadugu of Kadapa District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent at Hyderabad to lead marital life. The respondent filed F.C.O.P.No.1205 of 2014 on the file of Family Court, City Civil Court, Hyderabad, for restitution of conjugal rights.

4. The petitioner has been residing in Kurnool due to misunderstandings between her and the respondent. The contention of the learned counsel for the respondent is that the petitioner has nothing to do with Kurnool and filed the present petition with an ulterior motive. Learned counsel for the petitioner submitted that the petitioner has been prosecuting M.Tech.Course in K.V.Subba Reddy Engineering College at Kurnool. Both counsels with one voice submitted that the petitioners parents are no more. It appears, having no other alternative the petitioner has been staying in Kurnool at her maternal uncle's house. It is not uncommon to make allegations and counter allegations by the parties to the proceedings more particularly in matrimonial matters. If this Court expresses any opinion while disposing transfer petition, it may cause prejudice to one of the parties to the proceedings at the time of trial. The respondent is facing trial in D.V.C.No.24 of 2015 on the file of the Special Judicial Magistrate of

First Class, Prohibition & Excise, Kurnool. Invariably, the respondent has to attend the criminal Court at Kurnool in view of pendency of D.V.C.No.24 of 2015. It may not be possible for the petitioner to travel from Kurnool to Hyderabad without the assistance of her maternal uncle. 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.

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

6. 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 petitioner deserves the relief sought for.

7. Learned counsel for the respondent submitted that 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.1205 of 2014 is withdrawn from the file of the Family Court, City Civil Court, Hyderabad, and transferred to Family Court, Kurnool, for disposal in accordance with law. The presence of the respondent/husband before the Family Court, Kurnool in connection with F.C.O.P.No.1205 of 2014, on each and every date of adjournment, is hereby dispensed with. However, he shall appear before the Family Court, Kurnool, as and when his presence is so required. As a sequel, miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

03.09.2015.

Rns

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