

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.453 of 2015

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw H.M.O.P.No.75 of 2015 from the file of Senior Civil Judge Court, Bhimavaram, West Godavari District and transfer the same to the file of Family Court, City Civil Court, Secunderabad.

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

3. The marriage of the petitioner was performed with the respondent on 28.1.2014 at Hyderabad as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with a daughter on 05.5.2005. The respondent filed H.M.O.P. No.75 of 2015 on the file of the Senior Civil Judge Court, Bhimavaram for dissolution of the marriage between him and the petitioner.

4. The petitioner has been residing in Hyderabad at her maternal grandmother's house along with her daughter, due to misunderstandings between her and the respondent. The distance between Hyderabad and Bhimavaram is about 400 KMs. It is not the case of the respondent that the petitioner is an earning member. The petitioner may face difficulty to travel from Hyderabad to Bhimavaram in order to prosecute H.M.O.P. No.75 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 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 being a Doctor by profession may face some difficulty to attend the Family Court, City Civil Court, Secunderabad 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. H.M.O.P. No.75 of 2015 is withdrawn from the file of the Senior Civil Judge Court, Bhimavaram, West Godavari District and transferred to the file of Family Court, City Civil Court, Secunderabad, for disposal in accordance with law. The Family Court, City Civil Court, Secunderabad is hereby directed to dispense with the presence of the respondent–husband in connection with H.M.O.P. No.75 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: 27.10.2015

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^[1] AIR 2002 SC 396

^[2] 2001 (7) Supreme 96