

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Tr.C.M.P.No.61 of 2015

Between:

Nidhi Bothra, W/o Sharad Bothra ... Petitioner
and

Sharad Bothra S/o Dhanraj Bothra.
... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 11-08-2015

SUBMITTED FOR APPROVAL:

THE HON’BLE SRI JUSTICE T.SUNIL CHOWDARY

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.61 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.1552 of 2014 from the file of the Additional Family Court, Hyderabad and transfer the same to the Family Court-cum-V Additional District Judge, Visakhapatnam.

2. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, I am inclined to dispose of the matter on merits in the absence of the respondent.

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

4. The marriage of the petitioner was performed with the respondent on 06.05.2013 at Tarapanth Bhavan, Beside KIMS Hospital, Secunderabad, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The petitioner filed FCOP No.8 of 2015 on the file of the Family Court-cum-V Additional District Judge, Visakhapatnam seeking maintenance from the respondent. Basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Visakhapatnam registered a case in Crime No.12 of 2015 for the offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act. The respondent filed O.P.No.1552 of 2014 on the file of the Additional Family Court, Hyderabad for restitution of conjugal rights.

5. Unfortunately bad weather prevailed in the family life of the petitioner and the respondent. The petitioner has been residing at Visakhapatnam. The distance between Visakhapatnam and Hyderabad is more than 750 KMs. The petitioner may face much

difficulty to travel 750 KMs in order to prosecute O.P.No.1552 of 2014 at Hyderabad. Invariably, the respondent has to attend the Criminal Court and Family Court-cum-V Additional District Judge, Visakhapatnam in view of pendency of Crime No.12 of 2015 and F.C.O.P.No.8 of 2015. If the petition is dismissed, it may cause untold hardship to the petitioner. Even if the petition is allowed, the same may not cause any prejudice to the respondent. While disposing of the petitions of this nature, the Court has to take into consideration the ground realities as well as the hardship likely to be caused to the wife.

6. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[3], 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 case cited supra, I am of the considered view that the relief sought by the petitioner can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.1552 of 2014 is withdrawn from the file of the Additional Family Court, Hyderabad and transferred to the Family Court-cum-V Additional District Judge, Visakhapatnam for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any pending in this civil miscellaneous petition, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 11.08.2015.

Gv/

^[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

^[2] AIR 2002 SC 396

[\[3\]](#) 2001 (7) Supreme 96