

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.670 of 2014

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.1547 of 2012 pending on the file of the Judge, Family Court, Visakhapatnam and transfer the same to the Court of Principal Senior Civil Judge, Kovvur of West Godavari district.

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

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 25.02.2012 at Marteru of West Godavari district as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent filed F.C.O.P.No.1547 of 2012 on the file of Family Court, Visakhapatnam to declare the marriage between him and the petitioner as null and void. The petitioner filed HMOP No.180 of 2014 on the file of the Court of Principal Senior Civil Judge, Kovvur for restitution of conjugal rights. The material placed on record reveals that bad weather prevailed in the family life of the petitioner and the respondent immediately after the marriage. The petitioner has been residing at her parents' house at Rajampalem of Gopalapuram. The petitioner has been attending the Family Court at

Visakhapatnam since 2012. When the matter is coming up for cross examination of the respondent, the petitioner approached this court and filed the present petition.

4 While deciding the petitions of this nature, the Court has to take into consideration the convenience of the parties to the proceedings, more particularly, the convenience of the wife. At the same time, the Court shall not lose sight of certain aspects while deciding this type of petitions. If really the petitioner has any inconvenience or grievance, what prevented her to file this petition at the earliest point of time, particularly, before filing of the counter in the FCOP filed by the respondent? The petitioner, by filing counter in the said FCOP, allowed the trial Court to proceed further. When the FCOP is coming up for cross examination of the respondent, for one reason or the other, the petitioner filed the present petition. If the petition is allowed at this stage, it may cause untold hardship not only to the respondent but it will also affect the progress of the trial. As per the principle laid down in ***Manasarover Industries (P) Ltd and Others Vs. State of U.P and Others***^[1], the Court cannot automatically allow the transfer petition after commencement of trial.

5 Having regard to the facts and circumstances of the case and also the principle laid down in the case cited supra, I am of the considered view that the petitioner has not assigned reasons much less cogent and convincing

reasons for transfer of the case.

6 For the foregoing discussion, I see no merits in this petition and accordingly the petition is dismissed. However, the respondent is directed to pay Rs.1,000/- (Rupees One Thousand only) to the petitioner whenever she attends the Family Court at Visakhapatnam. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 25.06.2015

Kvsn

[\[1\]](#) (2005) 13 SCC 440