

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.CIVIL MISCELLANEOUS PETITION No.333 of 2014

ORDER:

This petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.47 of 2014 from the file of Senior Civil Judge, Kandukur, Prakasam District and transfer the same to Family Court, Guntur.

2. The facts leading to filing of the present petition are briefly as follows: The marriage of the petitioner was performed with respondent on 16.10.2010 at Sai Baba Kalyana Mandapam, Kanigiri as per Hindu rites and caste customs. Out of their wedlock, the petitioner and respondent were not blessed with children. Due to family disputes, the petitioner has been residing at Guntur at her brother's house. The petitioner lodged a complaint to the Station House Officer, Old Guntur Police Station, who in-turn registered the case in Crime No.424 of 2013 against the respondent for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner also filed DVC No.5 of 2015 and the same is pending on the file of Special Mobile Court, Guntur. While things stood thus, the petitioner also filed F.C.O.P.No.95 of 2014 on the file of Family Court, Guntur seeking maintenance from the respondent.

3. The respondent herein filed H.M.O.P.No.47 of 2014 on the file of the Senior Civil Judge, Kandukur of Prakasam District against the petitioner herein for dissolution of marriage.

4. Learned counsel for the petitioner submitted that it is very difficult for the petitioner to attend the Court at Kandukur on each and every date of adjournment. ***Per contra***, learned counsel for the respondent submitted that the petitioner herein created Aadhar Card and filed criminal cases at Guntur, therefore, the present petition is liable to be dismissed.

5. A perusal of the record reveals that three cases i.e., one criminal case, one DVC case and one maintenance case are pending on the file of different Courts at Guntur. Invariably the respondent has to attend in those cases at Guntur. Even if this case is also transferred to Guntur, the same may not cause any prejudice or

hardship to the respondent. If the matter is not transferred, the petitioner may face much difficulty to attend the Court at Kandukur on each and every date of adjournment. The Court has to take into consideration the inconvenience likely to be caused to the petitioner/wife, as she has been residing in Guntur at the mercy of her brother. Even as per the decision of the Hon'ble Supreme Court in ***Sumita Singh v Kumar Sanjay***, while considering the proceedings to transfer of matrimonial cases, convenience of wife should be looked at. Further, it is not the case of the respondent that the petitioner has sufficient source of income to attend the Court at Kandukur all the way travelling from Guntur.

6. 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 it is a fit case to withdraw H.M.O.P.No.47 of 2014 from the file of Senior Civil Judge, Kandukur, Prakasam District and transfer the same to the file of Family Court, Guntur.

7. Accordingly, the Transfer Miscellaneous Petition is allowed. H.M.O.P.No.47 of 2014 is withdrawn from the file of Senior Civil Judge, Kandukur, Prakasam District and transferred to the Family Court, Guntur. Family Court, Guntur is hereby directed to dispense with the presence of respondent/husband herein for each and every date of adjournment. However, respondent/husband shall appear as and when the Court feels that his presence is so required. No costs.

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

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T.SUNIL CHOWDARY, J.

Date: 02.06.2015.

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