

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP No.654 of 2014

ORDER:

This petition is filed under Section 24 C.P.C to withdraw O.P.No.1302 of 2014 from the file of the Family Court, Ranga Reddy District at L.B. Nagar and transfer the same to the Family Court, Warangal.

2. The facts leading to the filing of the present petition are briefly as follows: The marriage of the petitioner with the respondent was officiated on 15.10.2003 at Shambunipet, Pochamma Street, Warangal as per Christian rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead happy marital life. Out of their wedlock, the petitioner and the respondent were blessed with 3 children. For one reason or other, disputes arose between the parties. Respondent filed O.P.No.127 of 2012 under Indian Divorce Act on the file of the Family Court, Ranga Reddy for dissolution of marriage. Hence, the petition.

3. The learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Ranga Reddy. The learned counsel for the respondent submitted that it is very difficult for respondent to attend the Court at Warangal in view of his employment.

4. The petitioner and the respondent were blessed with three children out of their lawful wedlock. The petitioner has been residing at her parents' house in Warangal. Learned counsel for the petitioner submitted that the respondent herein filed O.P No.127 of 2012 on the file of Family Court, Ranga Reddy against the petitioner for restitution of conjugal rights. The petitioner herein filed a petition for transfer of O.P No.127 of 2012 and the same was transferred to Family Court, Waranagal by this Court. The factum of transfer of O.P.No.127 of 2012 is not denied by the respondent counsel. The petitioner herein filed M.C.No.7 of 2012 seeking maintenance against the respondent herein and the same is pending on the file of the Family Court, Warangal. The fact remains two cases are pending between the parties in different Courts at Warangal. The distance between Warangal and Hyderabad is nearly 145 KMs. It is not the case of the respondent that the petitioner is having sufficient means to prosecute the case at Ranga Reddy by travelling from Warangal to Hyderabad i.e., nearly 145 KMs.

5. On the other hand respondent is a Government employee having sufficient source of income. The respondent has to present two cases at Warangal. It may not be possible for the petitioner to attend the Court at Ranga Reddy on each and every date of adjournment without the assistance of some male person. In order to resolve the issue, this Court is placing reliance on the ratio laid down in **V. Sailaja Vs. V. Koteswara Rao**. Para 8 of the said judgment reads as follows:

8. Having heard the learned Counsel for both parties and having due regard to the law laid down by the Apex Court in these matters, I am of the considered view that in matters concerning the transfer of matrimonial cases, it is the convenience of the wife which has to be taken into consideration by the Courts (see **Rachna Kanodia v. Anuk Kanodia**, 2001 (7) Supreme 96, and **Sumita Singh v. Kumar Sanjay**, AIR 2002 SC 396). Thus, in view of the law laid down by the Apex Court in the aforementioned cases, the O.P. filed by the respondent (husband) i.e., O.P. No. 416 of 2000 deserves to be transferred from the file of the Family Court, Vijayawada, to the Senior Civil Judge's Court, Vizianagaram, where the O.P. filed by the petitioner for restitution of conjugal rites is pending.

6. As per the principle enunciated in the case cited supra, the Court has to take into consideration inconvenience likely to be caused to the wife while deciding transfer petitions.

7. 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 transfer O.P.No.1302 of 2014 from the file of the Family Court, Ranga Reddy at L.B. Nagar to the Family Court, Warangal.

8. Accordingly, the Transfer Miscellaneous Petition is allowed. O.P.No.1302 of 2014 is withdrawn from the file of the Family Court, Ranga Reddy District at L.B.Nagar and transferred to the Family Court, Warangal for trial and disposal in accordance with law.

As a sequel, miscellaneous petitions, if any pending in this Tr.CMP, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 04.06.2015.

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