

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.479 of 2013

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.417 of 2013 from the file of the Family Court, Vijayawada and transfer the same to the file of the Family Court, Nellore for disposal in accordance with law.

2. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend Family Court at Vijayawada. Learned counsel for the respondent, on the other hand, submitted that the petitioner has filed the present petition with an ulterior motive to harass the respondent.

3. I have perused the material available on record in order to appreciate the rival contentions of both parties. It is an admitted fact that the marriage of the petitioner was performed with respondent on 30.5.2009 at Datta Kalyana Mandapam, Gollapudi, Vijayawada City, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. For one reason or the other, disputes arose between the parties. The petitioner lodged a complaint to the Station House Officer, Varikunta Padu Police Station, Nellore District, who in turn registered a case in Crime No.62 of 2012 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner also filed MC No.9 of 2012 against the respondent seeking maintenance on the file of Junior Civil Judge Court, Nellore. The respondent filed O.P. No.417 of 2013 under Section 9 of Hindu Marriage Act against the petitioner for restitution of conjugal rights, which is pending on the file of Family Court, Vijayawada.

4. At the time of arguments, learned counsel for the respondent submitted that the petitioner lodged a complaint to the Station House Officer, Miyapur Police Station, Hyderabad. The fact remains that the petitioner has been residing in Nellore District at her parent's house. The petitioner and respondent have made allegations and counter allegations against each other. It is not uncommon to make allegations and counter allegations more particularly in matrimonial cases in order to gain sympathy

of the court. It is needless to say that the court shall not express any opinion touching the merits of the main case while deciding the cases of this nature. Learned counsel for the respondent in all fairness admitted that the petitioner hails from Nellore District. The distance between Nellore and Vijayawada is nearly 280 KMs. It may not be possible for the petitioner to travel 280 KMs to attend Family Court at Vijayawada without assistance of a male member. While disposing of this type of petitions, the court has to take into consideration the ground realities as well as the hardship likely to be caused to the wife.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao, Sumita Singh v. Kumar Sanjay** and **Rachna Kanodia v. Anuk Kanodia**, 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 it is a fit case to transfer O.P. No.417 of 2013 from the file of the Family Court, Vijayawada to the file of the Family Court, Nellore.

6. Accordingly, the Transfer Miscellaneous Petition is allowed. O.P.No.417 of 2013 is withdrawn from the file of the Family Court, Vijayawada and transferred to the file of the Family Court, Nellore for disposal in accordance with law. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 11.06.2015.

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