

**HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

TRANSFER CIVIL MISCELLANEOUS PETITION No.249 of 2015

**ORDER:**

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.354 of 2013 from the file of the Family Court, Vijayawada and transfer the same to the Principal District Judge Court, West Godavari, Eluru.

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 24.11.2010 at RCM Church, Vuyyuru, as per Christian rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with a son. The petitioner filed DVC No.111 of 2012 on the file of the II Additional Judicial First Class Magistrate, Eluru. The petitioner filed OP No.617 of 2013 on the file of District Court, Eluru for restitution of conjugal rights. Basing on the complaint lodged by the petitioner, the Station House Officer, Eluru III Town P.S., West Godavari District registered a case in Crime No.163 of 2013 for the offence punishable under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act. The respondent filed O.P.No.354 of 2013 on the file of the Family Court, Vijayawada for dissolution of marriage between him and the petitioner.

5. Due to misunderstandings, the petitioner has been residing at her parents' house at Eluru along with her son. It is not the case of the respondent that the petitioner is having sufficient means to

prosecute the matter at Vijayawada. As rightly pointed out by the learned counsel for the petitioner it may not be possible for the petitioner to travel from Eluru to Vijayawada along with her minor son. The respondent has to appear different Courts at Eluru in view of pendency of the cases referred supra. 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**<sup>[1]</sup>, **Sumita Singh v. Kumar Sanjay**<sup>[2]</sup> and **Rachna Kanodia v. Anuk Kanodia**<sup>[3]</sup>, 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.354 of 2013 is withdrawn from the file of the Family Court, Vijayawada, Krishna District and transferred to the Principal District Judge Court, West Godavari, Eluru for trial and disposal in accordance with law. 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: 17.07.2015.**

Gv/

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<sup>[1]</sup> AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

<sup>[2]</sup> AIR 2002 SC 396

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