

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.588 of 2014

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw FCOP No.412 of 2014 from the file of the Judge, Family Court, Visakhapatnam and transfer the same to any competent Court at Kakinada.

2 The learned counsel for the petitioner submitted that if the FCOP filed by the respondent/husband is not transferred, it is very difficult for the petitioner to attend the Family Court at Visakhapatnam.

3 On the other hand, the learned counsel for the respondent submitted that the petitioner filed the present petition by suppressing material facts and hence the present petition is liable to be dismissed.

4 In order to appreciate the rival contentions, it is apposite to refer to the material averments of the petition filed by the petitioner as well as the counter filed by the respondent.

5 As per the averments made in the petition, the marriage of the petitioner was performed with the respondent on 20.08.2008 at Sri Sri Sri Varaha Lakshmi Narasimha Swamy Vari Devasthanam, Simhachalam as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent at Visakhapatnam to lead happy marital life. Out of the lawful wedlock they were blessed with a daughter. Unfortunately bad weather prevailed in the family life of the petitioner and the respondent, which made them to approach different courts in Visakhapatnam district and East Godavari district. It is not in dispute that the petitioner hails from East Godavari District, whereas, the respondent hails from Visakhapatnam district. For one reason or the other, the petitioner has been residing at her parents' house at Kakinada along with her daughter.

6 At the time of arguments, the learned counsel for the respondent submitted that the petitioner has been working as teacher in

Narayana Techno School, Tuni. However, the contention raised by the learned counsel for the respondent is not supported by any documentary evidence. It is an admitted fact that the petitioner filed M.C.No.23 of 2014 on the file of IV Additional Judicial Magistrate Court, Kakinada seeking maintenance from the respondent. After receiving summons, the respondent appeared in M.C. No.23 of 2014 before the said Court. The factum of filing of M.C. by the petitioner at Kakinada, prima facie, negatives the contention of the respondent that the petitioner has been residing at Tuni town. It is not uncommon to make allegations and counter allegations against each other in matrimonial cases. I am not inclined to express any opinion with regard to the respective allegations made in the petition and the counter. The Court has to confine itself whether the petitioner has made out prima facie case for transfer of the case or not. Undoubtedly, it may cause some inconvenience to the petitioner to travel a distance of 200 KM along with her daughter without the assistance of a male person. The Court has to take into consideration the ground realities and the inconvenience likely to be caused to the wife.

7 At this juncture, the learned counsel for the respondent has drawn my attention to the ratio laid down in **Anindita Das Vs. Srijit Das** wherein the Hon'ble apex Court observed that the Court is required to consider each case on its own merits.

8 As per the principle laid down in **Sumita Singh Vs. Kumar Sanjay, Rachna Kanodia Vs. Anuk Kanodia**, and **V. Sailaja Vs. V. Koteswara Rao**, 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 cases cited supra, I am of the considered view that the petitioner deserves the relief as sought for.

9 In the result, the petition is allowed and the FCOP No.412 of 2014 pending on the file of the Judge, Family Court, Visakhapatnam is withdrawn from the file of the said Court and the same is transferred

to the Court of Principal Senior Civil Judge, Kakinada, East Godavari District for disposal in accordance with law. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 11.06.2015

Kvsn