

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Tr.C.M.P.No.335 of 2015

Between:

Bommipriya @ Pooja W/o M. Jaya Prathap ... Petitioner

and

M. Jaya Prathap S/o Muni Krishnan.

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 18-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.335 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw F.C.O.P.No.143 of 2014 from the file of the Family Court-cum-V Additional District Judge, Tirupati, Chittoor District and transfer the same to the Family Court-cum-VI Additional District Judge, Kadapa, YSR Kadapa District.

2. Heard both sides and perused the material available on record.
3. The marriage of the petitioner was performed with the respondent on 15.02.2013 at Vanniyakula 8 Kshatriya Kalyana Mandapam, Tiruthani of Tamilnadu State, as per Hindu 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 daughter. The respondent filed F.C.O.P.No.143 of 2014 on the file of the Family Court, Tirupati for restitution of conjugal rights.
4. The petitioner has been residing at her parents' house in Vempalle Village of Kadapa District along with her minor daughter. The distance between Vempalle and Tirupati is around 185 KMs. The petitioner may face much difficulty to travel 185 KMs along with her one year daughter in order to defend F.C.O.P.No.143 of 2014. If the petition is dismissed, it may cause untold hardship to the petitioner and her daughter. 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.
5. As per the principle enunciated in **Sumita Singh v. Kumar**

Sanjay^[1] and **Rachna Kanodia v. Anuk Kanodia**^[2], 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 relief sought by the petitioner can be granted.

6. As rightly pointed out by the learned counsel for the respondent, the respondent may face some difficulty to attend the Family Court, Kadapa in F.C.O.P.No.143 of 2014 on each and every date of adjournment. Even if the presence of the respondent is dispensed with no prejudice would be caused to the petitioner.

7. For these reasons, F.C.O.P.No.143 of 2014 is withdrawn from the file of the Family Court-cum-V Additional District Judge, Tirupati, Chittoor District and transferred to the Family Court-cum-VI Additional District Judge, Kadapa, YSR Kadapa District. The Family Court, Kadapa is hereby directed to dispense with the presence of respondent/husband for each and every date of adjournment. However, the respondent shall appear as and when the Court feels that his presence is so required.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. As a sequel, miscellaneous petitions, if any pending in this petition, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 18.08.2015.

Gv/

^[1] AIR 2002 SC 396

^[2] 2001 (7) Supreme 96