

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.302 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.455 of 2013 from the file of the Family Court, Vijayawada and transfer the same to the Senior Civil Judge Court, Amalapuram, East Godavari District.

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 29.03.2008 at Dwaraka Tirumala, Sri Venkateswara Temple, West Godavari District, 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 two children. The petitioner filed M.C.No.18 of 2014 on the file of the Judicial First Class Magistrate, Mummidivaram claiming maintenance from the respondent. The respondent filed O.P.No.455 of 2013 on the file of the Family Court, Vijayawada for dissolution of marriage between him and the petitioner.

5. The petitioner has been residing at her parents' house along with her children due to misunderstandings between her and the respondent. As per the recitals of O.P.No.455 of 2013, the petitioner has been residing in Tanelanka Village of Mummidivaram Mandal of East Godavari District as on the date of filing of O.P.No.455 of 2013. The petitioner may face much difficulty to travel 200 KMs in order to

prosecute O.P.No.455 of 2013 at Vijayawada. Invariably, the respondent has to attend the Judicial First Class Magistrate Court, Mummidivaram in view of pendency of M.C.No.18 of 2014. If the petition is dismissed, it may cause untold hardship to the petitioner and her children. 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 **V.Sailaja v V.Koteswara Rao**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[3], 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.455 of 2013 is withdrawn from the file of the Family Court, Vijayawada and transferred to the Senior Civil Judge Court, Amalapuram, East Godavari District 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: 29.07.2015.

Gv/

^[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

^[2] AIR 2002 SC 396

^[3] 2001 (7) Supreme 96