

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.224 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw MOP No.58 of 2014 from the file of the Senior Civil Judge, Sompet, Srikakulam district and transfer the same to the Court of the Family Court, Hyderabad.

2 The facts leading to filing of the present petition are as follows:

3 The marriage of the petitioner and the respondent was performed on 24.02.2007 at Thalabhadra village Palasa Mandal, Srikakulam District as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of the lawful wedlock, they were blessed with two children. After lapse of six years of happy marital life, unfortunately disputes arose between the petitioner and the respondent, because of which, now the petitioner is residing at her parents house in Hyderabad along with her children. The petitioner filed DVC No.133 of 2014 on the file of the learned III Metropolitan Magistrate, Hyderabad. While the things stood thus, the respondent filed MOP No.58 of 2014 on the file of Senior Civil Judge, Sompet in Srikakulam District for restitution of conjugal rights. Hence the petition.

4 The learned counsel for the petitioner submitted that due to financial problems, the petitioner is not in a position to attend the Court at Sompet hence the MOP No.58 of 2014 filed by the respondent on the file of the Senior Civil Judge, Sompet may be transferred to the Court of the Judge, Family Court at Hyderabad.

5 On the other hand, the learned counsel for the respondent submitted that there are no valid grounds to transfer the matter from Sompet to Hyderabad.

6 It is an admitted fact that the marriage of the petitioner was performed with the respondent on 24.2.2007 at Talabhadra village of

Srikakulam District and out of the wedlock they were blessed with two children. As per the averments made in the petition, the petitioner is residing at her parents' house at Hyderabad along with her children since May 2014. For obvious reasons disputes arose between the parties. The petitioner filed DVC no.133 of 2014 on the file of the III Metropolitan Magistrate, Hyderabad seeking various reliefs. The distance between Hyderabad and Sompeta is more than 800 k.m. In that view of the matter, it may not be possible for the petitioner to travel all the way from Hyderabad to Sompeta that too without the assistance of any male person. While deciding petitions of this nature, the Court has to taken into consideration the inconvenience likely to be caused to the wife. In any event, the respondent has to attend the criminal Court at Hyderabad in DVC No.133 of 2014. it is not the case of the respondent that the petitioner has sufficient means to travel 800 KM from Hyderabad to Sompeta. If the petition is not transferred, it will certainly cause untold hardship and inconvenience to the petitioner. Even if the petition is transferred, the same may not cause any prejudice to the respondent.

7 As per the principle enunciated 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.

8 In the result, the petition is allowed and the MOP No.58 of 2014 pending on the file of Senior Civil Judge, Sompeta, Srikakulam District is withdrawn from the file of the said Court and the same is transferred to the file of Judge, Family Court, Hyderabad for trial and disposal in accordance with law. However, the appearance of the respondent before the Family Court, Hyderabad is dispensed with on each and every adjournment. But he shall appear before the said Court as and when his presence is so required. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand

closed.

T. SUNIL CHOWDARY, J

Date: 09.06.2015

Kvsn