

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.124 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.164 of 2015 on the file of the Judge, Family Court, Rajahmundry, and transfer the same to the Court of Judge, Family Court, Visakhapatnam, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, this Court is inclined to dispose of the matter on merits. Heard the learned counsel for the petitioner and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 05.03.2015 at Ganta Ghani Raju Kalyanamantapam, Kothapet, Rajahmundry, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or other, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Visakhapatnam.

4. While things stood thus, the respondent filed O.P.No.164 of 2015 on the file of the Family Court, Rajahmundry, against the petitioner under Section 12(C) of the Hindu Marriage Act, for dissolution of marriage between them. The petitioner herein filed F.C.O.P.No.216 of 2017 on the file of the Family Court, Visakhapatnam, against the respondent under Section 125 Cr.P.C., seeking maintenance. The distance between Rajahmundry and Visakhapatnam is around 200 kilometers. It is the case of the petitioner that she is not in a position to

travel from Visakhapatnam to Rajahmundry without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court at Visakhapatnam, in view of pendency of F.C.O.P.No.216 of 2017.

5. While deciding the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, wife and the children.

6. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Pachna Kanodia v. Anuk Kanodia², and Sumita Singh v. Kumar Sanjay³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

7. 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 sought for.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.164 of 2015 is withdrawn from the file of the Family Court, Rajahmundry, and transferred to the file of the Family Court, Visakhapatnam, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

10th April 2017
Rns

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

