

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP Nos.796 & 798 OF 2016

COMMON ORDER:

1 Tr.CMP No.796 of 2010 is filed under Section 24 of CPC seeking to withdraw OP No.127 of 2013 pending on the file of the Judge, Family Court, Warangal and transfer the same to the Family Court, Ranga Reddy District.

2 Tr.CMP No.798 of 2010 is filed under Section 24 of CPC seeking to withdraw FCOP No.225 of 2014 pending on the file of the Judge, Family Court, Warangal and transfer the same to the Family Court, Ranga Reddy District.

3 The point involved in these transfer petitions is one and the same, hence I am inclined to dispose of the same by this common order.

4 The contention of the learned counsel for the petitioner is that the Court has to take into consideration the inconvenience of the wife while deciding the matrimonial cases and that it is a fit case to allow the transfer petitions.

5 *Per contra*, the learned counsel for the respondent submitted that the petitioner, having filed the petition at Warangal, is not entitled to seek transfer of the same to Hyderabad. He further submitted that when the matters are coming up for trial, the petitioner intentionally filed the present petitions for the reasons best known to her.

6 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 07.04.2012 at Sarojini Gardens, Medchal Road, Jeedimetla, Ranga Reddy District as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to one reason or the other, bad weather prevailed in the family life of the petitioner and the respondent, which led the petitioner to reside at her parents' house in Hyderabad. As can be seen from the record, the petitioner and the respondent are doctors by profession.

7 While the things stood thus, the respondent filed O.P.No.127 of 2013 on the file of the Family Court, Warangal against the petitioner under Section 13 (1a) (1b) of Hindu Marriage Act 1955 for dissolution of the marriage between them. The petitioner filed FCOP No.225 of 2014 on the file of the Family court, Warangal against the respondent under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. The petitioner also filed O.S.No.1 of 2015 on the file of the III Additional District Judge, Warangal against the respondent for recovery of dowry amount of Rs.15.00 lakhs.

8 For the reasons best known to the petitioner she filed counter in O.P.No.127 of 2013 on 19.11.2013 and she filed FCOP No.225 of 2014 on the file of the same Court under Section 9 of the Hindu Marriage Act. The respondent filed counter in the said FCOP in the month of November 2014. On 04.08.2015 the

respondent filed affidavit in lieu of his chief examination in OP No.127 of 2013. The petitioner also filed her affidavit in lieu of chief examination in F.C.O.P.No.225 of 2014 in the month of May 2015. The fact remains that both the matters are coming up for trial. The petitioner filed the present transfer petitions on 08.12.2016.

9 A perusal of the record reveals that the petitioner waited for a period of almost three years and filed the transfer applications. If really the petitioner has any problem or inconvenience in attending the Court at Warangal what prompted her to file FCOP No.225 of 2014 on the file of the Family Court, Warangal? More over, the petitioner herself filed O.S.No.1 of 2015 on the file of the III Additional District Judge, Warangal for recovery of dowry amount.

10 The relief sought in O.P.No.127 of 2013 is wider than the relief sought in FCOP No.225 of 2014. Moreover, O.P.No.127 of 2013 is earlier in point of time to FCOP No.225 of 2014. The petitioner has taken a plea in the affidavit that the respondent threatened her with dire consequences on 05.3.2016 when she attended the Family Court at Warangal. If really the respondent threatened the petitioner what prevented her to lodge a complaint to the Station House Officer concerned against the petitioner? It is not uncommon to take this type of pleas in transfer petitions in order to gain sympathy of the Court. If the petitioner had approached this court immediately after filing of the O.P.No.127 of 2013 by the respondent, then there may be some justification for transfer of the matter. I am fully agreeing with the submissions

made by the learned counsel for the petitioner that the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings more particularly to the wife and children while deciding the transfer applications. Invariably the petitioner has to visit Warangal to prosecute O.S.No.1 of 2015. In view of the peculiar facts and circumstances of the case, I am of the considered view that it is not a fit case to transfer the OP No.127 of 2013 and FCOP No.225 of 2014 from the Family Court at Warangal to Family Court at Ranga Reddy.

11 In the result, both the Transfer CMPs are dismissed. The presence of the petitioner before the trial Court in OP No.127 of 2013 and FCOP No.225 of 2014 is dispensed with on each and every adjournment. However, the petitioner shall appear before the trial Court as and when her presence is so required. Consequently, miscellaneous petition if any pending in these Tr.CMPs shall stand closed.

T. SUNIL CHOWDARY, J

Date: April, 2017
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