

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.917 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. to withdraw O.P.No.582 of 2015 from the file of the XIV Additional District Judge (Family Court), Vijayawada and transfer the same to the Court of the Senior Civil Judge, Repalle.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition.

3. Heard the learned counsel for the petitioner.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 31.05.2013 at Sai Balaji Kalyana Mandapam, Poranki, as per Hindu Rites and Caste Custom. 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 the respondent. Therefore, the petitioner has been residing at her parents' house in Repalle. The respondent is facing trial in C.C.No.646 of 2015 on the file of the I Additional Junior Civil Judge, Repalle, for the offences punishable under Section 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The petitioner herein filed M.C.No.4 of 2016 on the file of the I Additional Junior Civil Judge, Repalle, claiming maintenance from the respondent. The respondent herein filed O.P.No.582 of 2015, under Section 9 of the Hindu Marriage Act, 1955, on the file

of the XIV Additional District Judge (Family Court), Vijayawada, against the petitioner.

5. Invariably, the respondent has to attend the Criminal Court at Repalle in view of pendency of C.C.No.646 of 2015 and M.C.No.4 of 2016. It is not the case of the respondent that the petitioner is having any source of income. The petitioner may face some difficulty to attend the Family Court at Vijayawada. 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, to the wife and children.

6. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, 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 relief sought by the petitioner deserves to be allowed.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.582 of 2015 is withdrawn from the file of the XIV Additional District Judge (Family Court), Vijayawada, and transferred to the Court of the Senior Civil Judge, Repalle, for disposal in accordance with law. There shall be no order as to costs.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.02.2017
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