

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.206 of 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw O.P.No.330 of 2016 from the file of the Court of III Senior Civil Judge, Kakinada, East Godavari District and transfer the same to the Family Court, Visakhapatnam.

2. In spite of service of notice, respondent did not choose to appear and contest the petition. Heard learned counsel for the petitioner.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 14.12.2005 at Kakinada, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of the lawful wedlock, the petitioner and respondent were blessed with two children. Due to one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Visakhapatnam along with her children. While things stood thus, the respondent filed O.P. No.330 of 2016 on the file of the Court of III Senior Civil Judge, Kakinada. The distance between Visakhapatnam and Kakinada is around 200 KMs. It is the case of the petitioner that she is not in a position to travel from Visakhapatnam to Kakinada to prosecute O.P. No.330 of 2016 along with children, without assistance of one of the male members of the family. The record further reveals that the petitioner filed F.C.O.P. No.239 of 2017 on the file of the Family Court, Visakhapatnam, against the respondent claiming

maintenance under Section 125 of Cr.P.C. Invariably, the respondent has to attend the Family Court, Visakhapatnam, in order to prosecute F.C.O.P. No.239 of 2017.

4. 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. As per the principle enunciated in **T.Gayatri Devi v Dr.Tallepaneni Sreekanth¹, Sumita Singh v. Kumar Sanjay²** and **Rachna Kanodia v. Anuk Kanodia³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. 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 can be granted.

6. Accordingly, the Transfer CMP is allowed. O.P. No.330 of 2016 is withdrawn from the file of the Court of III Senior Civil Judge, Kakinada and transferred to the file of Family Court, Visakhapatnam for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 25.4.2017
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96