

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.135 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.O.P.No.860 of 2016 on the file of the Judge, Family Court, Panga Reddy District, at L.B.Nagar, and transfer the same to the file of Judge, Family Court, Kurnool, for disposal in accordance with law.

2. Heard both the counsel 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 13.08.2014 at C.M.R.Function Hall, Almasguda, Panga Reddy District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to 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 Nandyal.

4. A perusal of the record reveals that the respondent filed F.C.O.P.No.860 of 2016 on the file of the Family Court, Panga Reddy District, against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of marriage between them. The petitioner also filed M.C.No.35 of 2016 on the file of the Judicial Magistrate of First Class, Nandyal, against the respondent seeking maintenance under Section 125 Cr.P.C. It is not in dispute

that the petitioner is a permanent resident of Nandyal of Kurnool district. It is the case of the petitioner that she is not in a position to travel from Kurnool to Hyderabad in order to prosecute F.C.O.P.No.860 of 2016. Invariably, the respondent has to attend the Criminal Court at Nandyal in view of pendency of M.C.No.35 of 2016.

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, the wife and the children. Even if the petition is allowed, the same may not cause any prejudice to the respondent.

6. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Rachna 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. At the time of arguments, learned counsel for the respondent submitted that the respondent has been working as a police constable in Ranga Reddy District, therefore, his presence may be dispensed with on each and every date of adjournment before the

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

Family Court, Kurnool. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.860 of 2016 is withdrawn from the file of the Judge, Family Court, Ranga Reddy District, at L.B.Nagar, and transferred to the file of the Judge, Family Court, Kurnool, for disposal in accordance with law. The presence of the respondent before the Family Court, Kurnool in connection with F.C.O.P.No.860 of 2016 is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

10th April 2017
Fns

T. SUNIL CHOWDARY, J

