

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.826 of 2016

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw O.P.No.41 of 2015 from the file of Family Court-cum-III Additional District Judge, Warangal and transfer the same to the Family Court, Khammam.

2. Heard Sri B.Muralidhar, learned counsel the petitioner and Sri A.Prabhakar Rao, learned counsel for the respondent. The learned counsel for the respondents vehemently opposed the petition.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the first respondent on 13.8.2014 at Swayambhu Sri Abhaya Venkateswara Swamy Devasthanam, UPH Colony, Khanapuram Haveli, Khammam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Within short period after the marriage, bad weather prevailed in the family life of the petitioner and first respondent, therefore, the petitioner has been residing at her parents' house in Khammam. The petitioner filed D.V.C. No.12 of 2015 on the file of the Court of I Additional Judicial Magistrate of First Class, Khammam and the same was dismissed for non-prosecution. The learned counsel for the petitioner submitted that the petitioner filed the appeal challenging the orders in D.V.C. No.12 of 2015. The petitioner filed M.C. No.36 of 2015 against the first respondent seeking maintenance under Section 125 of Cr.P.C., on the file of the Family Court, Khammam. The respondent is facing trial in C.C. No.387 of 2015 on the file of the Court of I Additional Judicial

Magistrate of First Class, Khammam, for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. The first respondent filed O.P. No.41 of 2015 against the petitioner on the file of the Family Court-cum-III Additional District Judge, Warangal, under section 12(1)(c) of the Hindu Marriage Act, for declaring the marriage between the petitioner and the first respondent as null and void. It is the case of the petitioner that she has to face problem to attend the Family Court, Warangal to prosecute O.P. No.41 of 2015. Invariably, the first respondent has to attend the criminal courts at Khammam in view of pendency of D.V.C. No.12 of 2015, M.C. No.36 of 2015 and C.C. No.387 of 2015.

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 **Sumita Singh v. Kumar Sanjay**¹ and **Rachna Kanodia v. Anuk Kanodia**², the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

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. As rightly pointed out by the learned counsel for the respondents, the first respondent may face some difficulty to

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

attend the Family Court, Khammam on each and every date of adjournment. Due to nature of his employment, the first respondent has to obtain leaves frequently in order to attend the Family Court, Khammam. Even if the presence of the first respondent before the Family Court, Khammam is dispensed with, no prejudice will be caused to the petitioner.

7. Accordingly, the Transfer CMP is allowed. O.P. No.41 of 2015 is withdrawn from the file of the Family Court-cum-III Additional District Judge, Warangal and transferred to the file of Family Court, Khammam, for disposal in accordance with law. The Family Court, Khammam is hereby directed to dispense with the presence of the first respondent in connection with O.P. No.41 of 2015, on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. The trial court is further directed to dispose of the matter as expeditiously as possible, preferably within a period of one year, from the date of receipt of a copy of this order. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 28.3.2017
YS