

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.411 of 2016

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.1909 of 2015 from the file of the II Additional Family Court-cum-XV Additional District Court, Ranga Reddy District at Miyapur and transfer the same to the Court of Senior Civil Judge, Chirala, Prakasam District.

2. Heard the learned counsel for the petitioner and learned counsel for the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 12.6.2009 at Tirupathi as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a daughter. Unfortunately, bad weather prevailed in the family life of the petitioner and the respondent; therefore, the petitioner left the matrimonial home and has been residing at her parents' house in Chirala. While things stood thus, the respondent filed F.C.O.P. No.1909 of 2015 against the petitioner under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. The petitioner filed M.C. No.19 of 2016 on the file of the Court of Additional Junior Civil Judge, Chirala under Section 125 of Cr.P.C., against the respondent seeking maintenance.

4. The distance between Chirala and Hyderabad is around 300 KMs. As rightly pointed out by the learned counsel for the petitioner, the petitioner may face difficulty to travel along with her

daughter from Chirala to Hyderabad to prosecute F.C.O.P. No.1909 of 2015. Invariably the respondent has to attend the Court of Additional Junior Civil Judge, Chirala in view of pendency of M.C. No.19 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 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.

6. 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.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P. No.1909 of 2015 is withdrawn from the file of file of the II Additional Family Court-cum-XV Additional District Court, Ranga Reddy District at Miyapur and transferred to the Court of Senior Civil Judge, Chirala, Prakasam District, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 14.3.2017
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¹ AIR 2002 SC 396

² 2001 (7) Supreme 96