

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.691 of 2016

ORDER:

This petition is filed under Section 24 read with 151 of C.P.C. seeking to withdraw O.P.No.54 of 2016 from the file of the Court of the Senior Civil Judge, Amalapuram, East Godavari District, and transfer the same to the file of the Family Court at Visakhapatnam.

2. Heard the learned counsel for both parties 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 11.12.2013 at Dwaraka Nagar, Visakhapatnam, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Both parties lived together for sometime in U.S.A. Out of lawful wedlock, the petitioner and respondent were blessed with one daughter. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing in Visakhapatnam along with her daughter. The mother of the respondent as a G.P.A. holder filed O.P.No.54 of 2016 on the file of the Court of the Senior Civil Judge, Amalapuram, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, against the petitioner for dissolution of marriage.

4. As per the recitals in O.P.No.54 of 2016, the petitioner has been residing in Visakhapatnam.

5. Learned counsel for the respondent submitted that the respondent is residing in India. Learned counsel for the petitioner submitted that the respondent is residing in U.S.A. Whether the respondent is residing in U.S.A. or India is not relevant so far as the disposal of this transfer petition is concerned.

6. It is the case of the petitioner that she is not in a position to travel from Visakhapatnam to Amalapuram along with her daughter to prosecute O.P.No.54 of 2016.

7. 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 Sreekanth**¹, **Rachna Kanodia v. Anuk Kanodia**² and **Sumita Singh v. Kumar Sanjay and another**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

8. 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.

9. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court at Visakhapatnam on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.54 of 2016 is withdrawn from the file of the Court of the Senior Civil Judge, Amalapuram, East Godavari District, and transferred to the file of the Family Court at Visakhapatnam for disposal in accordance with law. The presence of the respondent in respect of O.P.No.54 of 2016 is hereby dispensed with on each and every date of adjournment before the Family Court at Visakhapatnam. However, he shall appear before the said Court as and when his presence is so required. There shall be no order as to costs.

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



T.SUNIL CHOWDARY, J

Date: 18.04.2017
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