

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.543 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.O.P.No.94 of 2016 on the file of the Judge, Family Court, Khammam, and transfer the same to the file of Senior Civil Judge, Tanuku, West Godavari District, 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 06.12.2011 at Tadepalligudem, West Godavari District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or other, disputes arose between the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Kaluvagattu, Duvva village, Tanuku Mandal, East Godavari District.

4. While things stood thus, the respondent herein filed F.C.94 of 2016 on the file of the Judge, Family Court, at Khammam under Section 13(i)(ia) of the Hindu Marriage Act against the petitioner for dissolution of marriage between them. The petitioner herein filed H.M.O.P.No.108 of 2016 on the file of the Senior Civil Judge, Tanuku, against the respondent under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. A perusal of the

record further reveals that basing on the complaint lodged by the petitioner, the Station House Officer, II Town Police Station, Khammam, registered a case in Crime No.402 of 2014 against the respondent. It is the case of the petitioner that she is not in a position to travel from Tanuku to Khammam without the help of one of the male members of the family. It is not in dispute that the distance between Khammam and Tanuku is around 220 kms. Invariably, the respondent has to attend the court of Senior Civil Judge, Tanuku, to prosecute H.M.O.P.No.108 of 2016. In order to avoid conflicting of judgments, it is just and necessary to adjudicate both OPs by the same Court.

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.

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.94 of 2016 is withdrawn from the file of the Judge, Family Court, Khammam, and transferred to the file of the Senior Civil Judge, at Tanuku, East Godavari District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

3rd April 2017
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