

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.58 of 2017

ORDER:

This petition is filed under Section 24 read with Section 151 of C.P.C. seeking to withdraw O.P.No.1317 of 2016 from the file of the Family Court-cum-V Additional District Judge, Visakhapatnam, and transfer the same to the file of the Court of the Senior Civil Judge, Kakinada, East Godavari District.

2. In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence, this Court is inclined to dispose of the matter on merits.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 25.02.2015 at Kakinada, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For the reasons best known to the parties to the proceedings, disputes arose between them; therefore, the petitioner has been residing at her parents' house in Kakinada. The respondent herein filed O.P.No.1317 of 2016 on the file of the Family Court-cum-V Additional District Judge, Visakhapatnam, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, against the petitioner for dissolution of marriage between them.

5. A perusal of the record reveals that the respondent is facing trial in D.V.C.No.15 of 2016 on the file of the VI Additional Judicial

First Class Magistrate, Kakinada. The petitioner filed M.C.No.27 of 2015 on the file of the Judicial First Class Magistrate/Special Mobile Court at Kakinada against the respondent seeking maintenance under Section 125 of Cr.P.C.

6. It is the case of the petitioner that she is not in a position to travel from Kakinada to Visakhapatnam due to financial problems and other reasons.

7. Even as per the recitals in O.P.No.1317 of 2016, the petitioner is the permanent resident of Kakinada. Invariably, the respondent has to attend the Criminal Courts at Kakinada, in view of pendency of D.V.C.No.15 of 2016 and M.C.No.27 of 2015. 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.

8. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

9. 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.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

10. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.1317 of 2016 is withdrawn from the file of the Family Court-cum-V Additional District Judge, Visakhapatnam, and transferred to the file of the Court of the Senior Civil Judge, Kakinada, East Godavari District, for disposal in accordance with law. 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: 11.04.2017
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