

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.121 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.P.No.799 of 2016 from the file of the Additional Family Court at Visakhapatnam, and transfer the same to the file of the Family Court at Vijayawada, Krishna 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 03.09.1999 at Anglo Indian Kalyanamandapam, Visakhapatnam, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son and one daughter. Due to one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Vijayawada along with her two children. The respondent filed O.P.No.799 of 2016 on the file of the Additional Family Court at Visakhapatnam, under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955, against the petitioner for dissolution of marriage between them.

5. It is the case of the petitioner that she is not in a position to travel from Vijayawada to Visakhapatnam along with her children in order to prosecute O.P.No.799 of 2016.

6. A perusal of the record reveals that the petitioner filed M.C.No.203 of 2015 on the file of the Family Court at Vijayawada, against the respondent seeking maintenance. This itself indicates the financial status of the petitioner. Invariably, the respondent has to attend the Family Court at Vijayawada, in view of pendency of M.C.No.203 of 2015.

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. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.799 of 2016 is withdrawn from the file of the Additional Family Court at Visakhapatnam, and transferred to the file of the Family Court at Vijayawada, Krishna District, for

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

disposal in accordance with law. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 11.04.2017
Ivd

