

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Tr.CMP No.708 of 2013

ORDER :

The petitioner is no other than wife of the respondent. She is seeking transfer of HMOP No.74 of 2013 pending on the file of the III Addl.Senior Civil Judge, at Tirupati filed against her by her husband for divorce, to the Judge, Family Court at Visakhapatnam, to try along with F.C.O.P.No.185 of 2012 filed by her for maintenance civil u/sec.18 of the Hindu Adoptions and Maintenance Act, 1956.

The averments are that she is resident of Dondaparthi village, Visakhapatnam Corporation limits and their marriage was performed on 26.01.2007 at Visakhapatnam arranged through elders and she was neglected and ill-treated by her husband by his living with another woman by name Ramadevi and she was constrained to file M.C.No.185 of 2012, Visakhapatnam pending and subsequent to that, he filed divorce O.P.No.74 of 2013 on the file of the learned Senior Civil Judge's Court, Tirupati with false allegations to further harass her. It is also her say that Section 498-A IPC case is pending as C.C.No.128 of 2012 on the file of the I Addl.Chief Metropolitan Magistrate, Visakhapatnam against the respondent and before same Court another case DVC No.6 of 2012 also pending against him and thereby it is necessary to transfer divorce petition filed by respondent/ husband from the Court of III Addl.Senior Civil Judge, Tirupati to Judge, Family Court, Visakhapatnam, saying she is not in a position to travel lonely such

a long distance of 800kms, for every adjournment which she is facing the difficulty all through.

3. Heard both sides and perused the material on record.

4. The principle enunciated in T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹ and Sumita Sng Vs. Kumar Sanjay² the paramount consideration, in transfer of matrimonial cases, is the inconvenience of the wife when compared to that of the husband.

5. Having regard to the above, Tr.CMP is allowed. The H.M.O.P.No.74 of 2013 is withdrawn from the file of the III Addl.Senior Civil Judge, Tirupati, Andhra Pradesh and transferred to the file of the learned Judge, Family Court, Visakhapatnam, for disposal in accordance with law. The Judge, Family Court, Visakhapatnam, is directed to dispense with the personal appearance of the respondent/ husband once representing through advocate unless personal appearance is required for reconciliation or for giving of evidence, as the case may be.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date:28.11.2017
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396