

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.659 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.665 of 2015 from the file of the Family Court-cum-V Additional District Judge at Visakhapatnam and transfer the same to the file of the Family Court, City Civil Courts, Hyderabad.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 01.02.2013 as per Hindu Rites and Caste Custom. The petitioner hails from Hyderabad, whereas the respondent is a native of Visakhapatnam. For one reason or other, bad weather prevailed in the family life of the petitioner and the respondent. The petitioner has been residing at her parents' house in Hyderabad, in view of unpleasant atmosphere in the family life. The respondent filed F.C.O.P.No.665 of 2015 on the file of the Family Court-cum-V Additional District Judge at Visakhapatnam against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, 1955 to dissolve the marriage between them.

4. There is no material on record to prove that the petitioner is having source of income to travel from Hyderabad to Visakhapatnam. The petitioner has to take assistance of one of the male members of the family to travel from Hyderabad to Visakhapatnam in order to prosecute divorce petition. 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.

5. 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.

6. 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.

7. At the time of arguments, learned counsel for the respondent submitted that the respondent is suffering with heart ailment. To substantiate the same, he filed medical reports along with the counter. He further submitted that the presence of the respondent may be dispensed with before the Family Court, City Civil Courts, Hyderabad, on each and every date of adjournment. It is not the case of the respondent that he cannot travel from one place to another place.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.665 of 2015 is withdrawn from the file of the Family Court-cum-V Additional District Judge at Visakhapatnam and transferred to the file of the Family Court, City Civil Courts, Hyderabad, for disposal in accordance with law. The presence of the respondent (husband) in respect of F.C.O.P.No.665

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

of 2015 is hereby dispensed with on each and every date of adjournment before the Family Court, City Civil Courts, Hyderabad. However, he shall appear before the said Court as and when his presence is so required. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 13.02.2017

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