

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.28 of 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw H.M.O.P.No.104 of 2016 from the file of the Court of Senior Civil Judge, Peddapalli and transfer the same to the Family Court, Vijayawada.

2. The petitioner has taken out personal notice to the respondent, as directed by this Court on 24.1.2017. In spite of service of notice, respondent did not choose to appear and oppose the petition. Hence, this court is not inclined to pass order on merits.

3. Heard the learned counsel for the petitioner.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 18.11.2004 at Vijayawada as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent at Ramagundam to lead marital life. Unfortunately, bad weather prevailed in the family life of the petitioner and the respondent; therefore, the petitioner left the matrimonial home and has been residing at her parents' house in Vijayawada. While things stood thus, the petitioner filed M.C. No.193 of 2015 on the file of the Family Court, Vijayawada against the respondent seeking maintenance. The respondent filed H.M.O.P. No.104 of 2016 on the file of

the Court of Senior Civil Judge, Peddapalli, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights.

5. The distance between Peddapalli and Vijayawada is 250 KMs. The petitioner filed the M.C. seeking maintenance from the respondent. This itself indicates the financial status of the petitioner. It may not be possible for the petitioner to travel 250 KMs without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court, Vijayawada to prosecute M.C. No.193 of 2015.

6. 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 **Sumita Singh v. Kumar Sanjay**¹ and **Rachna Kanodia v. Anuk Kanodia**², 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 relief sought by the petitioner can be granted.

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

8. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.104 of 2016 is withdrawn from the file of the Senior Civil Judge, Peddapalli, Karimnagar District and transferred to the file of Family Court, Vijayawada, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 13.3.2017
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