

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.465 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw G.O.P.No.8 of 2015 on the file of the II Additional District Judge Court at Adoni, Kurnool District, and transfer the same to Additional District Judge Court, Hindupur, Ananthapur District, for disposal in accordance with law.

2. Heard the learned counsel for the petitioner. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, this Court is inclined to pass orders on merits.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 23.04.2000 at Anjaneya swamy vari Temple, Kasapuram, Ananthapur District as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with two children. Due to one reason or other, bad weather prevailed in the family life of the petitioner and the respondent, due to which the petitioner has been residing at her parents house in Hindupur. The respondent herein filed G.O.P.No.8 of 2015 on the file of the II Additional District Judge Court, Kurnool at Adoni under Section 7, 8 and 9 of the Guardian and Wards Act, 1890 to declare him as guardian of minor children.

4. The distance between Hindupur and Adoni is about 250 kilometers. It is not the case of the respondent that the petitioner is having source of income. The petitioner has to take assistance of one of

the male members of the family in order to go to Adoni from Hindupur to prosecute G.O.P.No.8 of 2015. A perusal of the record *prima facie* reveals that the children are under the custody of the petitioner. As per Section 9(1) of the Guardian and Wards Act, the application has to be filed in the District Court within whose jurisdiction ward is ordinarily residing.

5. 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, the wife and the children. Even if the petition is allowed, the same may not cause any prejudice to the respondent.

6. Having regard to the facts and circumstances of the case and also the scope of Section 9(1) of the Guardian and Wards Act, I am of the considered opinion that the petitioner is entitled for the relief sought for.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. G.O.P.No.8 of 2015 is withdrawn from the file of the II Additional District Judge, at Adoni, Kurnool District, and transferred to the file of the Additional District Judge Court, Hindupur, Ananthapur District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

27th February 2017
Rns

T.SUNIL CHOWDARY, J

