

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.461 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw M.O.P.No.67 of 2015 pending on the file of the Senior Civil Judge Court at Adoni, Kurnool District, and transfer the same to the court of Senior Civil Judge, 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 M.O.P.No.67 of 2015 on the file of the Senior Civil Judge Court, Hindupur under Section 13(1)(ia)(ib) of Hindu Marriage Act against the respondent for dissolution of marriage.

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 M.O.P.No.67 of 2015. For the reasons best known, the respondent did not choose to contest the matter. 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.

5. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Rachna Kanodia v. Anuk Kanodia², and Sumita Singh v. Kumar Sanjay³, 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 inclined to allow the petition.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. M.O.P.No.67 of 2015 is withdrawn from the file of the Senior Civil Judge Court, Adoni, Kurnool District, and transferred to the court of the Senior Civil Judge, Hindupur, Ananthapur District,

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

27th February 2017
Fns

