

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.142 of 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.87 of 2017 from the file of Additional Family Court, Visakhapatnam and transfer the same to the Family Court, Vizianagaram.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 27.3.2010 at Visakhapatnam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Vizianagaram. The respondent filed F.C.O.P. No.87 of 2017 on the file of Additional Family Court, Visakhapatnam. It is the case of the petitioner that she cannot travel from Vizianagaram to Visakhapatnam to prosecute F.C.O.P. No.87 of 2017 without assistance of one of the male members of the family.

4. 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 **T.Gayatri Devi v Dr.Tallepaneni Sreekanth¹, Sumita Singh v. Kumar Sanjay²** and

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

Rachna Kanodia v. Anuk Kanodia³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

5. 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.

6. The learned counsel for the respondent submitted that the presence of the respondent before the Family Court, Vizianagaram in connection with F.C.O.P. No.87 of 2017 may be dispensed with. Even if the presence of the respondent before the Family Court, Vizianagaram is dispensed with, no prejudice will be caused to the petitioner.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P. No.87 of 2017 is withdrawn from the file of the Additional Family Court, Visakhapatnam and transferred to the file of Family Court, Vizianagaram, for disposal in accordance with law. The presence of the respondent in connection with F.C.O.P. No.87 of 2017 before the Family Court, Vizianagaram, is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 17.4.2017
YS

³ 2001 (7) Supreme 96