

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.732 of 2016

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.794 of 2015 from the file of the Family Court, City Civil Court, Hyderabad and transfer the same to the Family Court, Secunderabad.

2 Heard the learned counsel for both parties.

3 A perusal of the record reveals that the marriage of the petitioner with the respondent was performed on 31.01.1996 as per Hindu rites and caste custom at Aleru of Nalgonda District. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of the lawful wedlock, the petitioner and the respondent were blessed with two sons. Due to one reason or the other, disputes arose between the petitioner and the respondent, because of which, the petitioner has been residing at her parents' house in Secunderabad.

4 While the things stood thus, the respondent filed F.C.O.P.No.794 of 2015 against the petitioner, on the file of Family Court, City Civil Court, Hyderabad, under Section 9 of Hindu Marriage Act for restitution of conjugal rights. The petitioner filed O.P.No.1367 of 2016 on the file of the Family Court, Secunderabad against the respondent under Section 13 I (a) I (b) of Hindu Marriage Act for dissolution of marriage

between her and the respondent. The petitioner also filed M.C.No.14 of 2016 against the respondent under Section 125 Cr.P.C. on the file of Family Court, Secunderabad, seeking maintenance. The petitioner also filed O.P.No.1364 of 2016 on the file of the Family Court, Secunderabad to appoint her as guardian of the wards.

5 Three matters are pending on the file of the Family Court, Secunderabad. The relief sought for in O.P.No.1367 of 2016 is wider than the relief sought for in O.P.No.794 of 2015. In order to avoid conflicting of judgments, it is just and necessary to dispose of O.P.Nos.794 of 2015 and O.P.No.1367 of 2016 by the same Court.

6 While deciding cases of this nature, the Court has to take into consideration the inconvenience that is likely to be caused to the parties, more particularly, to the wife and children.

7 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay¹, Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178

supra, I am of the considered view that the petitioner deserves the relief as sought for.

8 In the result, the petition is allowed and the F.C.O.P.No.794 of 2015 pending on the file of the Family Court, City Civil Court, Hyderabad is withdrawn from the file of the said Court and is hereby transferred to the Family Court, Secunderabad for trial and disposal in accordance with law. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

Date: 03.04.2017
Kvsn

T. SUNIL CHOWDARY, J

