

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.100 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.67 of 2015 on the file of the Senior Civil Judge Court, Hindupur, Ananthapur District, and transfer the same to the file of Senior Civil Judge, at Gadwal, Jogulamba Gadwal District, for disposal in accordance with law.

2. Heard both the counsel and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 28.04.1999 at Mudureddipally village of 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 sons and one daughter. Due to one reason or other, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house at Eklasapur village of Aiza Mandal of Mahaboobnagar District.

4. A perusal of the record reveals that the respondent filed O.P.No.67 of 2015 on the file of the Senior Civil Judge, Hindupur, against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of marriage between them. The petitioner herein filed M.C.No.11 of 2015 on the file of the Additional Judicial

Magistrate of First Class, Gadwal, against the respondent seeking maintenance under Section 125 Cr.P.C. A perusal of the record further reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Aiza, registered a case in Crime No.118 of 2015 under Section 498-A IPC. A perusal of the record further reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Aiza registered a case in Crime No.137 of 2015 against the respondent under Sections 448 and 323 IPC. The distance between Hindupur and Gadwal is nearly 400 kilometers. It is the case of the petitioner that she is not in a position to travel from Gadwal to Hindupur along with her children in order to prosecute O.P.No.67 of 2015. Invariably, the respondent has to attend the Junior Civil Judge Court, Gadwal, in view of pendency of M.C.No.11 of 2015.

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.

6. As per the principle enunciated in *V.Sailaja v V.Koteswara Rao*¹, *Rachna Kanodia v. Anuk Kanodia*², and *Sumita Singh v. Kumar Sanjay*³, 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 petitioner deserves the relief sought for. At

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

the time of arguments, learned counsel for the respondent submitted that the presence of the respondent may be dispensed with on each and every date of adjournment before the Senior Civil Judge Court, Gadwal. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.67 of 2015 is withdrawn from the file of the Senior Civil Judge Court, Hindupur, Ananthapur District, and transferred to the file of the Senior Civil Judge, at Gadwal, Jogulamba Gadwal District, for disposal in accordance with law. The presence of the respondent before the Court of Senior Civil Judge, Gadwal, in connection with O.P.No.67 of 2015 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. As a sequel, miscellaneous petitions, pending if any shall stand closed.

18th April 2017
Rns

T.SUNIL CHOWDARY, J