

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.29 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.107 of 2016 on the file of the Judge, Family Court, City Civil Court, Hyderabad, and transfer the same to the file of Judge, Family Court, at Warangal, 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 12.12.2014 at Kothagudem of Khammam District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent within short period after the marriage. Due to family disputes, the petitioner has been residing at her parents house in Warangal.

4. A perusal of the record reveals that the petitioner herein filed O.P.No.94 of 2015 on the file of the Family Court, Warangal, against the respondent under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of marriage between them. The petitioner also filed M.C.No.43 of 2016 on the file of the Family Court, Warangal, against the respondent seeking maintenance under Section 125 Cr.P.C. The respondent herein is facing trial in

D.V.C.No.9 of 2016 on the file of the Judicial Magistrate of First Class, Warangal. The respondent herein filed F.C.O.P.No.107 of 2016 on the file of the Family Court, Hyderabad, against the petitioner under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The relief sought by the petitioner in O.P.No.94 of 2015 is more wider than the relief sought by the petitioner in F.C.O.P.No.107 of 2016. In order to avoid conflicting of judgments, it is just and necessary to dispose of both O.Ps. by the same Court. Even as per the cause title in F.C.O.P.No.107 of 2016, the petitioner is residing in Warangal. Invariably, the respondent has to attend the Family Court, Warangal, in view of pendency of O.P.No.94 of 2015 and M.C.No.43 of 2016. The respondent has to attend the Court of Judicial Magistrate of First Class, Warangal, in view of pendency of .D.V.C.No.9 of 2016.

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. 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.

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.107 of 2016 is withdrawn from the file of the Judge, Family Court, City Civil Court, Hyderabad, and transferred to the file of the Judge, Family Court, at Warangal, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

3rd April 2017

Note:

Issue C.C. within a week.

B/o. Rns.

T.SUNIL CHOWDARY, J

