

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.140 OF 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC, seeking to withdraw O.P. No.50 of 2016 from the Court of Senior Civil Judge, Piler, Chittoor District and transfer the same to the Family Court, Nellore.

2. Heard learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 09.12.2007 at Tiruchanuru, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The petitioner and respondent lived together at different places. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house at Gotuvarikandrika, Amancharla Post, Nellore District. The respondent filed HMOP No.2 of 2013 on the file of the Court of Senior Civil Judge, Piler, Chittoor District against the petitioner under Section 13(1), (1A) & (1B) of the Hindu Marriage Act for dissolution of the marriage between them. The respondent not pressed HMOP No.2 of 2013, in view of settlement between the parties. Unfortunately, the disputes arose between them and again the petitioner left the matrimonial home and has been residing with her parents in Gotuvarikandrika. While things stood thus, the respondent filed O.P. No.50 of 2016 on the file of the Court of Senior Civil Judge, Piler, against the petitioner under Section 13(1), (1A) & (1B) of the Hindu Marriage

Act for dissolution of the marriage. The distance between Nellore and Piler is around 200 KMs. It is the case of the petitioner that she is not in a position to travel from Nellore to Piler to prosecute O.P. No.50 of 2016, without assistance of one of the male members of the family. The record further reveals that the respondent is facing trial in DVC No.17 of 2017 on the file of the Court of Special Judicial Magistrate of First Class for Excise Offences, Nellore. Basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Nellore registered a case in Crime No.17 of 2017 against the respondent and others for the offences under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. Invariably, the respondent has to attend criminal courts at Nellore in view of Crime No.17 of 2017 and DVC No.17 of 2017.

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 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.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

6. Accordingly, the Transfer CMP is allowed. O.P.No.50 of 2016 is withdrawn from the file of the Court of Senior Civil Judge, Piler, Chittoor District and transferred to the file of Family Court, Nellore for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 25.4.2017
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