

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.217 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.1774 of 2015 from the file of the Family Court, Visakhapatnam, and transfer the same to the file of the Court of the Senior Civil Judge, Sompeta, Srikakulam District.

2. In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence, this Court is inclined to dispose of the matter on merits.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 10.05.2015 at Visakhapatnam, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Sompeta. While things stood thus, the respondent filed F.C.O.P.No.1774 of 2015 on the file of the Family Court, Visakhapatnam, under Section 9 of the Hindu Marriage Act, 1955, against the petitioner for restitution of conjugal rights. The petitioner filed M.C.No.1 of 2016 on the file of the Court of the Principal Judicial First Class Magistrate, Sompeta, against the respondent seeking maintenance under Section 125 of Cr.P.C.

5. The distance between Visakhapatnam and Sompeta is around 250 K.M. It is the case of the petitioner that she is not in a position to travel from Sompeta to Visakhapatnam in order to prosecute F.C.O.P.No.1774 of 2015 without the assistance of one of the male members of the family. It is the further case of the petitioner that her father is a blind person. Invariably, the respondent has to attend the Court of the Principal Judicial First Class Magistrate, Sompeta, in view of pendency of M.C.No.1 of 2016.

6. 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, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, 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 relief sought by the petitioner deserves to be allowed.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.1774 of 2015 is withdrawn from the file of the Family Court, Visakhapatnam, and transferred to the file of the Court of the Senior Civil Judge, Sompeta, Srikakulam District, for

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

disposal in accordance with law. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 25.04.2017
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