

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.887 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.P.No.52 of 2016 from the file of the Court of the Senior Civil Judge, Hindupur, Anantapur District, and transfer the same to the file of the Family Court at Kadapa.

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.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 13.05.1984 at Kadapa, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a son. Due to one reason or other, disputes arose between the petitioner and respondent, therefore, the petitioner has been residing at her parents' house in Kadapa. The respondent herein filed O.P.No.31 of 2004 on the file of the Court of the Senior Civil Judge, Hindupur.

5. It is the case of the petitioner that she filed a transfer petition on the file of this Court seeking to withdraw O.P.No.31 of 2004 from the file of the Court of the Senior Civil Judge, Hindupur and transfer the same to the file of the Family Court, Kurnool, and the same was allowed. It is the further case of the petitioner that

the respondent did not appear before the Family Court, Kurnool, therefore, O.P.No.31 of 2004 was dismissed for default. Again the respondent filed O.P.No.52 of 2016, under Section 13(1)(a) of the Hindu Marriage Act, 1955, on the file of the Court of the Senior Civil Judge, Hindupur, against the petitioner herein for dissolution of marriage between them.

6. Even as per the averments made in O.P.No.52 of 2016, the petitioner has been residing in Kadapa Town. For the reasons best known, the respondent did not choose to appear and contest the matter. The distance between Kadapa and Hindupur is more than 100 K.M. The petitioner may face some difficulty to travel from Kadapa to Hindupur in order to prosecute O.P.No.52 of 2016. A perusal of the record also reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Kadapa, registered a case in Crime No.15 of 2016 against the respondent and others for the offences punishable under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. Invariably, the respondent has to attend the Criminal Court at Kadapa in view of pendency of criminal case. 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.

7. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth**¹, **Rachna Kanodia v. Anuk Kanodia**²

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

and **Sumita Singh v. Kumar Sanjay and another**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

8. 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.

9. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.52 of 2016 is withdrawn from the file of the Court of the Senior Civil Judge, Hindupur, Anantapur District, and transferred to the file of the Family Court at Kadapa for disposal in accordance with law. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 27.03.2017
Ivd

³ AIR 2002 SC 396