

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.8 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw M.O.P.No.53 of 2016 pending on the file of the Court of Principal Senior Civil Judge, Nandyal, Kurnool District, and transfer the same to the court of Senior Civil Judge, Tenali, Guntur District, for disposal in accordance with law.

2. Heard the learned counsel for the petitioner. This Court permitted the petitioner to take out personal notice to the respondent by registered post with acknowledgment due by mentioning the date of listing of the matter as 08.03.2017. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to dispose of the matter on merits.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 23.01.2004 at T.T.D.Mandapam at Mahanandi, Kurnool 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 a daughter aged about eight years. Due to one reason or other, bad weather prevailed in the family life of the petitioner and respondent, and the petitioner has been residing at her parents house along with her daughter.

4. While things stood thus, the respondent filed marriage O.P.No.53 of 2016 on the file of the Principal Senior Civil Judge, Nandyal against the petitioner under Section 13(1)(ia)(ib) of Hindu Marriage Act for dissolution of marriage between them. The distance between Tenali and Nandyal is around 300 kilometers. It may not be possible for the petitioner to travel 300 kilometers along with her daughter without the assistance of one of the male members of the family.

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.

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 is entitled to the relief sought for.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. M.O.P.No.53 of 2016 is withdrawn from the file of the

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

Principal Senior Civil Judge, Nandyal, Kurnool District, and transferred to the file of the Senior Civil Judge Court at Tenali, Guntur District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

14th March 2017
Rns

T.SUNIL CHOWDARY, J

