

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.131 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.O.P.No.70 of 2015 on the file of the Judge, Family Court, Guntur, and transfer the same to any other court having jurisdiction at Eluru, 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 13.08.2000 at Medical Association Hall, Eluru, 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 son. Due to disputes, the petitioner has been residing at her parents house in Eluru along with her son.

4. A perusal of the record reveals that the respondent filed F.C.O.P.No.70 of 2015 on the file of the Family Court, Guntur, against the petitioner under Section 13(1)(ia)(ib) of the Hindu Marriage Act, for dissolution of marriage between them. As per the recitals in F.C.O.P., the petitioner is the permanent resident of Eluru town. It is the case of the petitioner that she is not in a position to travel from Eluru to Guntur along with her son in order to prosecute F.C.O.P.No.70 of 2015. A perusal of the record

reveals that the petitioner filed M.C.No.58 of 2002 on the file of the II Additional Judicial Magistrate of First Class, Eluru, against the respondent claiming maintenance. This also indicates the financial status of the petitioner. Invariably, the respondent has to attend the criminal court at Eluru in order to prosecute M.C.No.58 of 2002.

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, 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 deserves the relief sought for. At the time of arguments, learned counsel for the respondent submitted that the presence of the respondent may be dispensed with on each and every date of adjournment before the Family Court, Eluru. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.70 of 2015 is withdrawn from the file of the Judge, Family Court, Guntur, and transferred to the file of the Judge, Family Court, Eluru, for disposal in accordance with law. The presence of the respondent before the Family Court, Eluru in connection with F.C.O.P.No.70 of 2015 is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

10th April 2017
Rns

T. SUNIL CHOWDARY, J

