

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.719 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw D.O.P.No.104 of 2016 on the file of the Court of II Additional District Judge, Madanapalle, Chittoor District, and transfer the same to the file of II Additional District Judge, Proddatur, Kadapa District, for disposal in accordance with law.

2. Heard Sri Solomon Raju Manchala, learned counsel for the petitioner and Sri Guttapalem Vijayakumar, learned counsel for the respondent and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 08.05.2013 at Kothapalle, Rangasamudram Post, PTM Mandal, Chittoor District, as per Christian rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The petitioner and respondent lived together for some time in Bangalore. A perusal of the record further reveals that the petitioner and respondent lived together for some time in Madanapalle of Chittoor District. Due to one reason or other, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Proddatur of Kadapa District. It is not in dispute that by the time of filing of D.O.P.No.104 of 2016, the petitioner was residing at Proddatur.

4. While things stood thus, the respondent filed D.O.P.No.104 of 2016 on the file of the II Additional District Judge, Madanapalle, Chittoor District, against the petitioner under Section 10(1)(ix) and (x) of the Indian Divorce Act, 2001, for dissolution of marriage between them. The distance between Proddatur and Madanapalle is nearly 180 kilometers. It is the case of the petitioner that she is not in a position to travel from Proddatur to Madanapalle without the help of one of the male members of the family in order to prosecute D.O.P.No.104 of 2016.

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.

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. Learned counsel for the respondent submitted that the respondent is working as a teacher, therefore, his presence may be dispensed with on each and every date of adjournment before the II Additional

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

District Judge, Proddatur. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. D.O.P.No.104 of 2016 is withdrawn from the file of the II Additional District Judge, Madanapalle, Chittoor District, and transferred to the file of the II Additional District Judge, Proddatur, Kadapa District, for disposal in accordance with law. The presence of the respondent before the Court of II Additional District Judge, Proddatur, in connection with D.O.P.No.104 of 2016 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.

24th April 2017
Rns



T.SUNIL CHOWDARY, J