

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.195 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw D.O.P.No.1399 of 2016 on the file of the Court of Principal District and Sessions Judge, Guntur District, and transfer the same to the file of Principal District and Sessions Judge, Visakhapatnam, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence, this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner 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 23.10.1993 at Salvation Army Church, Peda Cherukur, Parchur Mandal, Prakasam District, as per Christian 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 one son and one daughter. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing separately.

4. While things stood thus, the respondent filed D.O.P.No.1399 of 2016 on the file of the Principal District and Sessions Court, Guntur, against the petitioner under Section 10(1)(ix)(x) of Divorce Act, 1869, for dissolution of marriage between them. A perusal of

the record reveals that at present the petitioner has been working as a lecturer in Nursing Faculty, King George Hospital, Jagadamba Junction, Visakhapatnam. The children of the petitioner are prosecuting M.Tech and B.Tech courses in Visakhapatnam. It is the case of the petitioner that she is not in a position to travel from Visakhapatnam to Guntur in view of nature of her employment. It is the further case of the petitioner that she has to look after the welfare of her children. The distance between Guntur and Visakhapatnam is around 400 kilometers.

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 Rao*¹, *Rachna Kanodia v. Anuk Kanodia*², and *Sumita Singh v. Kumar Sanjay*³, 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. D.O.P.No.1399 of 2016 is withdrawn from the file of the Principal District and Sessions Judge, Guntur, and transferred to

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

the file of the Principal District and Sessions Judge, Visakhapatnam, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

24th April 2017
Fns

