

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.111 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.49 of 2016 from the file of the Family Court at Vizianagaram and transfer the same to the file of the Family Court at Visakhapatnam.

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 and perused the material available on record.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent in the year 1994 at Visakhapatnam, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent at Karimnagar to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with two children. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Visakhapatnam along with her children. While things stood thus, the respondent filed F.C.O.P.No.49 of 2016 on the file of the Family Court at Vizianagaram by mentioning the petitioner is a resident of Vizianagaram. In fact the notice was served on the petitioner on the following address:

“Smt. Miriyala Naga Lakshmi, W/o. Miriyala Srinivasa Rao, C/o. Sri Kakileti Nageswara Rao, Door No.48-3-53, A/1, Upstair of Sai Durga Kirana General, Srinagar, Visakhapatnam.”

A perusal of the summon clearly reveals that the petitioner received the same at Visakhapatnam.

5. Learned counsel for the petitioner submitted that the petitioner hails from Visakhapatnam.

6. For the reasons best known, the respondent has mentioned wrong address of the petitioner in F.C.O.P.No.49 of 2016 as if she is residing at Vizianagaram. 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 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. F.C.O.P.No.49 of 2016 is withdrawn from the file of the

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

Family Court at Vizianagaram and transferred to the file of the Family Court at Visakhapatnam, 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: 04.04.2017

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