

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.510 of 2015

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw F.C.O.P.No.547 of 2015 from the file of Family Court, City Civil Court at Hyderabad and transfer the same to the Family Court at Vijayawada.

2. In spite of service of notice by way of paper publication, the respondent did not choose to appear and contest the matter. 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. The marriage of the petitioner was performed with the respondent on 13.2.2013 at Yagadirigutta, 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 on 14.1.2014. Due to one reason or the other, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents' house along with her son. The respondent filed F.C.O.P. No.547 of 2015 on the file of the Family Court, City Civil Court at Hyderabad against the petitioner under Sections 13(1)(i-a) and 13(1)(i-b) of Hindu Marriage Act, 1955 for dissolution of the marriage. The petitioner filed M.C. No.235 of 2015 on the file of the Family Court at Vijayawada against the respondent seeking maintenance under Section 125 of Cr.P.C.

5. It is the case of the petitioner that she is not in a position to travel from Vijayawada to Hyderabad along with her son to prosecute F.C.O.P. No.547 of 2015. Invariably, the respondent has to attend the Family Court at Vijayawada in view of pendency of M.C. No.235 of 2015.

6. 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. As per the principle enunciated in **T.Gayatri Devi v Dr.Tallepaneni Sreekanth¹, Sumita Singh v Kumar Sanjay² and Rachna Kanodia v Anuk Kanodia³**, 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 relief sought by the petitioner can be granted.

8. Accordingly, the Transfer CMP is allowed. F.C.O.P. No.547 of 2015 is withdrawn from the file of the Family Court, City Civil Court at Hyderabad and transferred to the file of Family Court, Vijayawada, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 11.4.2017
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96