

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.608 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.47 of 2016 on the file of the Court of Senior Civil Judge, Gadwal, Mahabubnagar District, and transfer the same to the court of Senior Civil Judge, Peddapuram, East Godavari District, 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 16.04.2006 at Venkateswara Swamy Temple, Srikakulam, 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 one son and one daughter. Due to one reason or other, bad weather prevailed in the family life of the petitioner and respondent, and the petitioner has been residing at her parents house in Rajapuram village, East Godavari District along with her children.

4. While things stood thus, the respondent filed O.P.No.47 of 2016 on the file of the Senior Civil Judge, Gadwal against the petitioner under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The distance between Peddapuram and Gadwal is around 700 kms. It is the case of the petitioner that she is not in

a position to travel from Rajanagaram to Gadwal along with her children without the assistance of one of the male members of the family. Moreover, the petitioner has been working as Anganwadi Teacher in Peddapuram.

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. 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 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. Learned counsel for the respondent submitted that the respondent is a lorry driver by profession. Therefore, it may not be possible for him to attend the Court at Peddapuram on each and every date of adjournment and requested to dispense with his presence before the Court.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.47 of 2016 is withdrawn from the file of the

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

Senior Civil Judge, Gadwal, Mahabubnagar District, and transferred to the file of the Senior Civil Judge Court at Peddapuram, East Godavari District, for disposal in accordance with law. The presence of the respondent before the Senior Civil Judge, Peddapuram, 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.

28th March 2017
Rns

T.SUNIL CHOWDARY, J

