

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.8 of 2018

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.37 of 2017 from the file of the Senior Civil Judge Court, Gurazala, Guntur District, and transfer the same to the file of Family Court, Vijayawada, Krishna District.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition; hence, this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner and perused the material on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 26.11.2015 at Sri Venkateswara Swamy Sannidhanam, Jangameswarapuram village, Gurazala Mandal, Guntur District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Vijayawada. A perusal of the record reveals that the petitioner filed M.C.No.309 of 2017 on the file of the Family Court, Vijayawada, against the respondent seeking maintenance under Section 125 Cr.P.C. Basing on the complaint lodged by the petitioner, the Station House Officer, Krishna Lanka, registered a case in Crime No.627 of 2017 against the respondent and others for the offence punishable

under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. While things stood thus, the respondent filed H.M.O.P.No.37 of 2017 on the file of the Senior Civil Judge Court, Gurazala, Guntur District, under Section 9 of Hindu Marriage Act, against the petitioner for restitution of conjugal rights. It is the case of the petitioner that she is facing much difficulty to travel from Vijayawada to Gurazala, in order to prosecute H.M.O.P.No.37 of 2017. Invariably, the respondent has to attend the Family Court, Vijayawada, in view of pendency of M.C. No.309 of 2017.

4. 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. 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 and children.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that the petitioner deserves the relief sought for.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.37 of 2017 is withdrawn from the file of the Senior Civil Judge Court, Gurazala, Guntur District, and

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

transferred to the file of Family Court, at Vijayawada, Krishna District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:12.10.2018

Rns

