

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.15 of 2017

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw O.P.No.82 of 2016 from the file of the Court of Principal Senior Civil Judge, Anakapalle and transfer the same to the file of the Court of Senior Civil Judge, Gooty, Ananthapur District.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 09.5.2015 at Anakapalle, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent filed O.P. No.82 of 2016 on the file of the Court of Principal Senior Civil Judge, Anakapalle, against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of the marriage.

4. The record reveals that due to the disputes between the petitioner and the respondent, the petitioner has been residing at her parents' house at Peddavaduguru Village in Ananthapuram District. The petitioner filed D.V.C.No.2 of 2015 and M.C.No.21 of 2015 against the respondent on the file of the Court of Junior Civil Judge, Gooty. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel from Ananthapur to Anakapalle, without the assistance of one of the male members of the family. Filing of M.C., also indicates the financial status of the petitioner. Invariably the respondent has to attend the Court of Junior Civil Judge, Gooty in view of pendency of D.V.C. No.2 of 2015 and M.C.No.21 of 2015.

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 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 and children.

6. 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. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed before the Court of Senior Civil Judge, Gooty, on each and every date of adjournment.

7. Accordingly, the Transfer CMP is allowed. O.P. No.82 of 2016 is withdrawn from the file of the Court of Principal Senior Civil Judge, Anakapalle and transferred to the Court of Senior Civil Judge, Gooty, for disposal in accordance with law. The presence of the respondent before the Court of Senior Civil Judge, Gooty, in connection with O.P. No.82 of 2016, on each and every date of adjournment, is dispensed with. However, the respondent shall appear before the Court of Senior Civil Judge, Gooty, as and when his presence is so required in O.P. No.82 of 2016. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 14.8.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96