

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.129 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw M.O.P. No.212 of 2016 from the file of the Family Court, Vijayawada and transfer the same to the file of the Family Court, Guntur, to be tried along with F.C.O.P. No.453 of 2016 and F.C.O.P. (M.C.) No.456 of 2016.

2. Heard 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 14.3.2014 at Guntur, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with a son. Due to one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Guntur, along with the son. While the things stood thus, petitioner filed F.C.O.P. No.453 of 2016 on the file of the Family Court, Guntur, against the respondent, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. The petitioner, on behalf of her son, filed F.C.O.P. (M.C.) No.456 of 2016 on the file of the Family Court, Guntur, against the respondent, under Section 125 of Cr.P.C., claiming maintenance. The respondent filed M.O.P. No.212 of 2016 on the file of the Family Court, Vijayawada, under Section 13(i-a)(iii) of the Hindu

Marriage Act, for dissolution of the marriage between him and the petitioner.

4. It is the case of the petitioner that she is facing much difficulty to travel along with the son, from Guntur to Vijayawada, to defend M.O.P. No.212 of 2016 filed by the respondent. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel from Guntur to Vijayawada, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court, Guntur in connection with F.C.O.P. No.453 of 2016 and F.C.O.P. (M.C.) No.456 of 2016.

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.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

7. Accordingly, the Transfer CMP is allowed. M.O.P. No.212 of 2016 is withdrawn from the file of the Family Court, Vijayawada and transferred to the file of the Family Court, Guntur, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 30.11.2018
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