

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.621 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw D.O.P.No.685 of 2016 from the file of the Family Court, Vijayawada, and transfer the same to the Court of Principal District Judge, Guntur.

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 record.

3. A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 27.08.2014 at Gokulam Function Hall, Guntur, as per Christian 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 daughter on 04.07.2015. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house along with her daughter. The petitioner filed F.C.O.P.No.471 of 2016 on the file of Family Court, Guntur, against the respondent seeking maintenance under Section 125 Cr.P.C. While things stood thus, the respondent filed D.O.P.No.685 of 2016 on the file of the Family Court, Vijayawada, Krishna District, under Section 10(1)(x) of Indian Divorce Act and Section 7 of Family Courts Act, against the petitioner for dissolution of marriage between them. It is the case of the

petitioner that she is not in a position to travel from Guntur to Vijayawada, along with her daughter in order to prosecute D.O.P.No.685 of 2016. Invariably, the respondent has to attend the Family Court, Guntur, in view of pendency of F.C.O.P.No.471 of 2016. 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.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao¹**, **Rachna Kanodia v. Anuk Kanodia²**, and **Sumita Singh v. Kumar Sanjay³**, 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. D.O.P.No.685 of 2016 is withdrawn from the file of the Family Court, Vijayawada, Krishna District, and transferred to the file of the Family Court, Guntur, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:04.10.2018
Rns

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396