

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.139 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.2844 of 2017 from the file of the Family Court-cum-XVI Additional District Court at Malkajgiri and transfer the same to the file of the Family Court at Visakhapatnam.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 21.08.2016 in Dr. A.S.Rao Nagar, Hyderabad, as per Hindu Rites and Caste Customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The petitioner and respondent stayed together for sometime in U.S.A. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner came to India and staying at her parent's house in Visakhapatnam. While things stood thus, the father of the respondent filed F.C.O.P.No.2844 of 2017, under Section 12(2)(b)(i) of Hindu Marriage Act, on the file of the Family Court-cum-XVI Additional District Court at Malkajgiri against the petitioner to declare the marriage between the petitioner and respondent as null and void.

4. It is the case of the petitioner that she is not in a position to travel from Visakhapatnam to Hyderabad in order to prosecute F.C.O.P.No.2844 of 2017.

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 Sreekanth**¹, **Rachna Kanodia v. Anuk Kanodia**² and **Sumita Singh v. Kumar Sanjay and another**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

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 deserves to be granted.

7. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court at Visakhapatnam, on each and every date of adjournment.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.2844 of 2017 is withdrawn from the file of the Family Court-cum-XVI Additional District Court at Malkajgiri and transferred to the file of the Family Court at Visakhapatnam for disposal in accordance with law. The presence of the respondent in connection with F.C.O.P.No.2844 of 2017 on the file of the Family Court at Visakhapatnam is dispensed with on each and every date of adjournment. However, he shall appear before the

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

Family Court as and when his presence is so required. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.09.2018

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