

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.156 of 2018

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw H.M.O.P.No.575 of 2017 from the file of the District Court, Anantapuramu and transfer the same to the file of the Family Court, Kadapa.

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

3. A perusal of the record reveals that the petitioner and the respondent belong to different religions. The marriage of the petitioner was officiated with the respondent on 29.4.2013 at Railway Institute, Gooty. 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 Kadapa. While the things stood thus, the respondent filed H.M.O.P. No.575 of 2017 on the file of the District Court, Anantapuramu, under Section 27(1)(d) of the Special Marriage Act for dissolution of the marriage between him and the respondent. The petitioner filed M.C. No.7 of 2017 on the file of the Family Court, Kadapa, seeking maintenance against the respondent.

4. It is the case of the petitioner that she is facing much difficulty to travel from Kadapa to Anantapuramu to defend

H.M.O.P. No.575 of 2017 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 Kadapa to Anantapuramu, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court, Kadapa in view of pendency of M.C.No.7 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 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.

7. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.575 of 2017 is withdrawn from the file of the District Court, Anantapuramu and transferred to the file of the Family Court, Kadapa, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 14.12.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96