

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.165 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.1504 of 2016 from the file of the Family Court, at Visakhapatnam, and transfer the same to III Additional Senior Civil Judge Court, Kakinada, East Godavari District.

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 material on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 10.02.2012 at Kakinada, as per Hindu 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 son on 27.11.2012. 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 son in Kakinada. The petitioner filed D.V.C.14 of 2014 on the file of the V Additional Judicial Magistrate of First Class Court, at Kakinada, against the respondent under Section 12 of the Protection of Women from Domestic Violence Act. The petitioner also filed H.M.O.P.No.128 of 2016 on the file of III Additional Senior Civil Judge Court, Kakinada, against the respondent under Section 9 of Hindu Marriage Act. While things stood thus, the respondent filed O.P.No.1504 of 2016 on the file of

the Family Court, Visakhapatnam, against the petitioner to dissolve the marriage between them. It is the case of the petitioner that she is facing much difficulty to travel from Kakinada to Visakhapatnam along with her son in order to prosecute O.P.No.1504 of 2016. Invariably, the respondent has to attend the V Additional Judicial Magistrate of First Class Court, Kakinada and III Additional Senior Civil Judge Court, Kakinada, in view of pendency of D.V.C.No.14 of 2014 and H.M.O.P.No.128 of 2016 respectively. 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. O.P.No.1504 of 2016 is withdrawn from the file of the Family Court, Visakhapatnam, and transferred to the file of III Additional Senior Civil Judge Court, at Kakinada, for disposal in

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

accordance with law. As a sequel, miscellaneous petitions,
pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:10.10.2018

Rns

