

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.217 of 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw H.M.O.P.No.82 of 2017 from the file of the Court of Senior Civil Judge, Kandukur, Prakasam District and transfer the same to the Family Court, Vijayawada, Krishna District.

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

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 05.12.2008 at Talluri Kalyana Mandapam, Kanigiri Town, Prakasam District, 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 a male child. 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 Vijayawada. While the things stood thus, the respondent filed H.M.O.P. No.82 of 2017 against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of the marriage between them. The petitioner filed H.M.O.P. No.227 of 2017 on the file of the Family Court, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights.

4. It is the case of the petitioner that she is facing much difficulty to attend the Court of Senior Civil Judge, Kandukur in order to defend H.M.O.P. No.82 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 Vijayawada to Kandukur, without the assistance of one of the male members of the family. Invariably the respondent has to attend the Family Court, Vijayawada in connection with H.M.O.P. No.227 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.82 of 2017 is withdrawn from the file of the Court of Senior Civil Judge, Kandukur, Prakasam District and transferred to the file of Family Court, Vijayawada, for disposal in accordance with law.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 26.9.2018
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