

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.181 OF 2017

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw O.P.No.1072 of 2016 pending on the file of the Judge, Family Court, Vijayawada and transfer the same to the Family Court, Eluru in West Godavari District.

2 In spite of service of notice, the respondent did not choose to appear and contest the petition. Heard learned counsel for the petitioner.

3 A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 20.02.2009 at Vijayawada as per Christian rites and caste custom. Immediately after the marriage the petitioner joined the respondent to lead marital life. Out of their lawful wedlock, the petitioner and the respondent were blessed with two sons. Due to various reasons, disputes arose between the petitioner and the respondent. The petitioner has been residing at her parents' house in Tanuku. The respondent filed O.P.No.1072 of 2016 on the file of the Judge, Family Court, Vijayawada under Section 10 (1) (x) of Hindu Marriage Act for dissolution of the marriage between him and the petitioner.

4 It is the case of the petitioner that she has to face much difficulty to attend the Family Court at Vijayawada to prosecute the O.P. A perusal of the record reveals that the respondent is accused in C.C.No.1058 of 2016 on the file of the Court of the II Additional Judicial First Class Magistrate, Tanuku. The petitioner also filed DVC No.7 of 2016 against the respondent on the file of the said Court.

5 While deciding the petition of this nature, the Court has to consider the convenience of the parties to the proceedings, more particularly, the wife. Invariably, the respondent has to attend the criminal Court at Tanuku in view of the pendency of the criminal case and a DVC.

6 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay¹**, **Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 petitioner deserves the relief as sought for.

7 In the result, the petition is allowed, O.P.No.1072 of 2016 pending on the file of the Judge, Family Court, Vijayawada is withdrawn from the file of the said court and is transferred to the Family Court, Eluru for disposal in accordance with law.

8 As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: July 24, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178