

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.280 of 2018

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.123 of 2016 from the file of the Court of Senior Civil Judge, Markapur, Prakasam District, and transfer the same to Family Court, Kurnool, Kurnool District.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 18.03.2012 at Mahanandi temple, Kurnool District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house in Kurnool Town. While things stood thus, the respondent filed H.M.O.P.No.123 of 2016 on the file of the Senior Civil Judge Court, Markapur, under Section 13(1)(1a)(1b) of Hindu Marriage Act, for dissolution of marriage between the petitioner and the respondent. A perusal of the record reveals that the petitioner filed F.C.M.C.No.41 of 2017 on the file of the Family Court, Kurnool, against the respondent seeking maintenance under Section 125 Cr.P.C. A perusal of the record reveals that D.V.C.No.56 of 2017 is also pending between the parties on the file of the Court of Judicial First Class Magistrate, Kurnool.

4. 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. Invariably, the respondent has to attend the Family Court, Kurnool and Judicial First Class Magistrate Court, Kurnool, in view of pendency of F.C.M.C.No.41 of 2017 and D.V.C.No.56 of 2017.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**¹, **Rachna Kanodia v. Anuk Kanodia**², and **Sumita Singh v. Kumar Sanjay**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 inclined to allow the petition.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.123 of 2016 is withdrawn from the file of Senior Civil Judge, Markapur, Prakasam District, and transferred to the file of Family Court, Kurnool, Kurnool District, for disposal in accordance with law.

8. At the time of arguments, learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court, Kurnool, Kurnool District. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner. Hence, the presence of the respondent/husband is dispensed with in connection with

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

H.M.O.P.No.123 of 2016 before the Family Court, Kurnool, Kurnool District, on each and every date of adjournment. However, he shall appear before the Family Court, Kurnool, as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:10.08.2018

Rns

