

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.300 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw F.C.O.P.No.1229 of 2017 pending on the file of the Family Court, Visakhapatnam and transfer the same to the Family Court-cum-III Additional District Judge, Vizianagaram.

2 Notice sent to the respondent returned with an endorsement 'unclaimed'. Service of notice on the respondent is sufficient. Heard the learned counsel for the petitioner and perused the record.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 18.04.2008 at Visakhapatnam as per Hindu rites and caste custom. 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 at Vizianagaram.

4 While things stood thus, the respondent filed F.C.O.P.No.1229 of 2017 against the petitioner on the file of the Family Court, Visakhapatnam under Section 13 (1-a) & (i-b) of the Hindu Marriage Act for dissolution of marriage.

5 It is the case of the petitioner that she filed FCOP No.71 of 2012 on the file of the Family Court-cum-III Additional District Court, Vizianagaram claiming maintenance from the respondent. It is the further case of the petitioner that she is not in a position to attend the Court at Visakhapatnam, in order to prosecute the F.C.O.P, without the assistance of one of the male members of the family. While

deciding the petition of this nature, the Court has to take into consideration the inconvenience of the parties to the proceedings, more particularly, the wife. Invariably the respondent has to attend the Family Court-cum-III Additional District Judge, Vizianagaram in connection with FCOP No.71 of 2012 filed by the petitioner claiming maintenance.

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, F.C.O.P.No.1229 of 2017 pending on the file of the Family Court, Visakhapatnam is withdrawn from the file of the said court and is transferred to the Family Court-cum-III Additional District Court, Vizianagaram for disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: December 14, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178