

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.306 of 2018

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw F.C.M.O.P.No.13 of 2018 from the file of the Family Court, Srikakulam, and transfer the same to Family Court, East Godavari District, Rajahmundry.

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 11.02.2017 at Rajahmundry 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 at Rajahmundry. The respondent filed F.C.M.O.P.No.13 of 2018 on the file of the Family Court, Srikakulam, under Section 9 of Hindu Marriage Act for restitution of conjugal rights.

4. A perusal of the record reveals that the respondent is the permanent resident of Visakhapatnam. Due to his employment, he has been staying in Srikakulam and filed the petition on the file of Family Court, Srikakulam. The contention of the learned counsel for the petitioner is that the petitioner is facing much difficulty to attend the Family Court at Srikakulam. It is a known fact that the petitioner has to take the assistance of one

of the male members of the family in order to prosecute F.C.M.O.P.No.13 of 2018. Even if the petition is allowed, the same may not cause any prejudice to the respondent. 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.

5. 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.

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. F.C.M.O.P.No.13 of 2018 is withdrawn from the file of Family Court, Srikakulam, and transferred to the file of Family Court, East Godavari District, Rajahmundry, for disposal in accordance with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, Rajahmundry. It is a known fact that the respondent has to obtain leave on every occasion to attend the Court at Rajahmundry. Even if the presence of the respondent is dispensed with, no prejudice

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

would be caused to the petitioner. Hence, the presence of the respondent/husband is dispensed with in F.C.M.O.P.No.13 of 2018 before the Family Court, Rajahmundry, on each and every date of adjournment. However, he shall appear before the Family Court, Rajahmundry, as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

27th July 2018

Rns

