

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.857 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.448 of 2016 from the file of the I Additional Family Court-cum-IV Additional District Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the file of the Family Court-cum-V Additional District and Sessions Court, Visakhapatnam.

2. Heard Sri R.Srikanth, the learned counsel for the petitioner, and Sri Srinivasa Rao Pappu, the learned counsel for the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 14.02.2013 at TNR Fort Suseela Function Hall at L.B.Nagar, Hyderabad, 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 respondent; therefore, the petitioner has been residing at her parents' house in Visakhapatnam. The petitioner filed F.C.O.P.No.330 of 2016 claiming maintenance and F.C.O.P.No.1638 of 2015 for recovery of the dowry amount from the respondent. While things stood thus, the respondent filed F.C.O.P.No.448 of 2016, under Section 9(a) and (1)(b) of Hindu Marriage Act, on the file of the I Additional Family Court-cum-IV Additional District Court, Ranga Reddy District at L.B.Nagar, against the petitioner for restitution of conjugal rights.

4. It is the case of the petitioner that she is facing much difficulty to travel from Visakhapatnam to Hyderabad in order to prosecute F.C.O.P.No.448 of 2016. Invariably, the respondent has to attend the

Family Court, Visakhapatnam, in view of pendency of F.C.O.P.No.330 of 2016 and F.C.O.P.No.1638 of 2015.

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, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, 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 of the considered view that the relief sought by the petitioner deserves to be granted.

7. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court, Visakhapatnam, on each and every date of adjournment.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.448 of 2016 is withdrawn from the file of the I Additional Family Court-cum-IV Additional District Court, Ranga Reddy District at L.B.Nagar, and transferred to the file of the Family Court-cum-V Additional District and Sessions Court, Visakhapatnam, for disposal in accordance with law. The presence of the respondent in connection with F.C.O.P.No.448 of 2016 on the file of the Family Court, Visakhapatnam, is dispensed with on each and every date of adjournment. However, he shall appear before the Family Court as

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

and when his presence is so required. The Family Court, Visakhapatnam, is hereby directed to dispose of F.C.O.P.No.330 of 2016, F.C.O.P.No.1638 of 2015 and F.C.O.P.No.448 of 2016, as expeditiously as possible, simultaneously in order to avoid conflicting of orders. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 04.10.2018
Ivd

