

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.891 of 2016

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw H.M.O.P.No.94 of 2016 from the file of the Court of Additional District Judge-cum-Family Court, West Godavari District at Eluru and transfer the same to the file of the Family Court, Vizianagaram.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 03.4.2010 at S.V.S. Kalyanamandapam, Benz Circle, Vijayawada, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For obvious reasons, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Vizianagaram. While the things stood thus, the respondent filed H.M.O.P. No.94 of 2016 against the petitioner under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, for dissolution of the marriage between them.

4. The record further reveals that the respondent is an accused in C.C.No.325 of 2015 for the offences under Sections 498-A and 506 read with 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, which is pending on the file of the Court of Additional Judicial Magistrate of First Class, Vizianagaram. The petitioner filed DVC No.7 of 2016 against the respondent on the file

of the Court of Additional Judicial Magistrate of First Class, Vizianagaram. The petitioner also filed F.C.M.C. No.41 of 2016 on the file of the Family Court, Vizianagaram against the respondent seeking maintenance under Section 125 of Cr.P.C. It is the case of the petitioner that she is facing much difficulty to attend the Family Court, Eluru in order to prosecute H.M.O.P. No.94 of 2016. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel from Vizianagaram to Eluru, without the assistance of one of the male members of the family. Filing of M.C., also indicates the financial status of the petitioner. Invariably the respondent has to attend the Court of Additional Judicial Magistrate of First Class, Vizianagaram in connection with C.C.No.325 of 2015 and DVC No.7 of 2016, and the Family Court, Vizianagaram in connection with F.C.M.C. No.41 of 2016.

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, Sumita Singh v. Kumar Sanjay² and Rachna Kanodia v. Anuk Kanodia³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

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 can be granted.

7. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.94 of 2016 is withdrawn from the file of the Court of Additional District Judge-cum-Family Court, West Godavari District at Eluru and transferred to the file of Family Court, Vizianagaram, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

Date: 25.9.2018
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T. SUNIL CHOWDARY, J

