

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.906 OF 2016

ORDER:

This petition is filed under Section 24 of C.P.C seeking to withdraw O.P.No.723 of 2016 pending on the file of the IV Addl. District Court-cum-Family Court, Vijayawada and transfer the same to any competent Court at Kakinada, East Godavari District.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to pass orders on merits.

3. Heard learned counsel for the petitioner.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 27.05.2011 at Rangampet Durga Devi Temple, Kakinada as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of their lawful wedlock, the petitioner and the respondent were blessed with one male child on 13.05.2013. Due to family disputes the petitioner has been residing at her parents house in Kakinada. While things stood thus, the respondent filed OP No.723 of 2016 on the file of the IV Addl. District Court-cum-Family Court, Vijayawada, against the petitioner under Section 9 of Hindu Marriage Act for restitution of conjugal rights.

5. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Vijayawada in order to prosecute O.P.No.723 of 2016.

6. While deciding the petition of this nature, the Court has to consider the convenience of the parties to the proceedings, more particularly, the wife and children.

7. 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.

8. In the result, the petition is allowed. O.P.No.723 of 2016 pending on the file of the IV Addl. District Court-cum-Family Court, Vijayawada is withdrawn from the file of the said court and is transferred to the Principal Senior Civil Judge, Kakinada, for disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Dated: 25-09-2018
Hsd

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178