

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.657 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.P.No.52 of 2016 from the file of the Family Court, Vijayawada, and transfer the same to the file of the Court of the Principal Senior Civil Judge, Kovvur.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 14.05.2015 at Kakatiya Kalyana Mandapam, Chagallu, 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, bad weather prevailed in the family life of the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Kovvur. The petitioner filed H.M.O.P. (S.R.) No.9872 of 2015 on the file of the Court of the Principal Senior Civil Judge, Kovvur, against the respondent for dissolution of marriage between them. While things stood thus, the respondent filed O.P.No.52 of 2016 on the file of the Family Court, Vijayawada, under Section 9 of Hindu Marriage Act, 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 Kovvur to Vijayawada without the assistance of one of the male members of the family.

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 Court of the Principal Senior Civil Judge, Kovvur, on each and every date of adjournment.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.52 of 2016 is withdrawn from the file of the Family Court, Vijayawada, and transferred to the file of the Court of the Principal Senior Civil Judge, Kovvur, for disposal in accordance with law. The presence of the respondent in connection with O.P.No.52 of 2016 on the file of the Court of the Principal Senior Civil Judge, Kovvur, is dispensed with on each and every date of adjournment. However, he shall appear before the trial

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

Court as and when his presence is so required. 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: 05.10.2018

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