

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.372 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw H.M.O.P.No.357 of 2017 pending on the file of the XIV Additional District Judge, Vijayawada and transfer the same to the Family Court-cum-V Additional District Judge, Visakhapatnam.

2 Heard learned counsel for both parties.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 09.11.2013 at Vijayawada as per Hindu rites and caste custom. 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 a boy. Due to various reasons, disputes arose between the petitioner and the respondent. The petitioner has been residing at her parents' house in Visakhapatnam. The petitioner filed FCOP No.833 of 2017 on the file of Family Court-cum-V Additional District Court, Visakhapatnam against the respondent seeking maintenance. The respondent filed H.M.O.P.No.357 of 2017 on the file of the XIV Additional District Court, Vijayawada against the petitioner for restitution of conjugal rights.

4 It is the case of the petitioner that she has to face much difficulty to attend the Court at Vijayawada in order to prosecute the O.P. Invariably the respondent has to attend the Family Court at Visakhapatnam in view of pendency of FCOP No.833 of 2017. While deciding the petition of this nature, the Court has to take into consideration the inconvenience of the parties to the proceedings, more particularly, the wife.

5 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay**¹, **Rachna Kanodia Vs. Anuk Kanodia**², and **V. Sailaja Vs. V. Koteswara Rao**³, 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.

6 The 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 adjournment.

7 In the result, the petition is allowed, H.M.O.P.No.357 of 2017 pending on the file of the XIV Additional District Court, Vijayawada is withdrawn from the file of the said court and is transferred to the Family Court-cum-V Additional District Court, Visakhapatnam for disposal in accordance with law. The presence of the respondent before the Family Court-cum-V Additional District Court, Visakhapatnam is hereby dispensed with on each and every date of adjournment. However, the respondent shall appear before the Family Court-cum-V Additional District Judge, Visakhapatnam as and when his presence is required.

8 As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: September 26, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178