

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.429 OF 2018

ORDER:

This petition is filed under Section 24 of C.P.C seeking to withdraw H.M.O.P.No.40 of 2018 pending on the file of the Senior Civil Judge, Sangareddy and transfer the same to the Court of XVI Addl. District Judge, Malkajgiri.

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 12.08.2014 at Railway Officer's Club at Secunderabad, 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 respondent were blessed with a daughter, aged about 1 ½ years. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house in Malkajgiri, Hyderabad. While things stood thus, the petitioner filed M.C.No.431 of 2017 on the file of the Family Court-cum-XVI Addl. District Judge, Malkajgiri, against the respondent seeking maintenance.

4. Both counsel submitted that DVC No.23 of 2018 filed by the petitioner is pending against the respondent on the file of the XVIII Metropolitan Magistrate, Malkajgiri, Ranga Reddy District. The respondent filed HMOP No.40 of 2018 on the file of the Senior Civil Judge, Sangareddy, under Section 9 of the 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 Sangareddy in order to prosecute HMOP No.40 of 2018.

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. A perusal of the record reveals that M.C.No.431 of 2017 is pending against the respondent on the file of Family Court-cum-XVI Addl. District Judge, Malkajgiri. Invariably, the respondent has to attend the Family Court-cum-XVI Addl. District Court, Malkajgiri

8. 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. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court-cum-XVI Addl. District Court, Malkajgiri on each and every adjournment.

9. In the result, the petition is allowed. H.M.O.P.No.40 of 2018 pending on the file of the Senior Civil Judge, Sangareddy, is withdrawn from the file of the said court and is transferred to the Family Court-cum-XVI Addl. District Court, Malkajgiri, for disposal in accordance with law. The presence of the respondent before the Family Court-cum-XVI Addl. District Court, Malkajgiri in connection with H.M.O.P.No.40 of 2018 is hereby

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178

dispensed with on each and every date of adjournment. However, the respondent shall appear before the Family Court-cum-XVI Addl. District Court, Malkajgiri, as and when his presence is so required. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Dated: 18-09-2018

Hsd

