

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.416 of 2018

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw F.C.O.P.No.92 of 2018 from the file of the Judge, Family Court, Nellore, and transfer the same to Family Court-cum-V Additional District Judge, Tirupathi.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 15.08.2009 as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son and one daughter. For one reason or other, disputes arose between the petitioner and the respondent. While things stood thus, the petitioner filed F.C.O.P.No.167 of 2016 on the file of the Family Court-cum-V Additional District Judge, Tirupathi, against the respondent seeking maintenance. The respondent filed F.C.O.P.No.92 of 2018 on the file of the Family Court, Nellore, under Section 9 of the Hindu Marriage Act, against the petitioner. It is the case of the petitioner that she is facing much difficulty to attend the Family Court, at Nellore as she has to look after her children. Invariably, the respondent has to appear before the Family Court, Tirupathi, in view of pendency of F.C.O.P.No.167 of 2016. 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, the wife and children.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**¹, **Rachna Kanodia v. Anuk Kanodia**², and **Sumita Singh v. Kumar Sanjay**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. 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 it is a fit case to allow the petition.

6. At the time of arguments, learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court-cum-V Additional District Judge, Tirupathi, on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.92 of 2018 is withdrawn from the file of Family Court, Nellore, and transferred to the file of Family Court-cum-V Additional District Judge Court, Tirupathi, for disposal in accordance with law. The presence of the respondent/husband is dispensed with in F.C.O.P.No.167 of 2016 before the Family Court-cum-V Additional District Judge

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

Court, Tirupathi, on each and every date of adjournment. However, he shall appear before the Family Court-cum-V Additional District Judge Court, Tirupathi, as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:17.09.2018

Rns

