

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.186 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.90 of 2016 from the file of the Senior Civil Judge Court, Nuzvid, Krishna District, and transfer the same to Family Court, Eluru, West 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. Heard the learned counsel for the petitioner and perused the material on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 28.05.2015 at Sri Venkateswara Swamy Vari Temple, Dwaraka Tirumala, West Godavari District, 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 daughter. 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 Chintalapudi of West Godavari District. Basing on the complaint lodged by the petitioner, the Station House Officer, Chintalapudi, registered a case in Crime No.68 of 2016 against the respondent and others for the offence punishable under Section 498-A read with 34 IPC and Section 4 of Dowry Prohibition Act. While things stood thus, the respondent filed H.M.O.P.No.90 of 2016 on the file of the Senior Civil Judge Court, Nuzvid, under Section 13(1)(ia)(ii) of Hindu Marriage Act, against

the petitioner for dissolution of marriage between them. It is the case of the petitioner that she is facing much difficulty to travel from Chintalapudi to Nuzvid along with her daughter in order to prosecute H.M.O.P.No.90 of 2016.

4. 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. 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, this Court is of the considered view that the petitioner deserves the relief sought for.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.90 of 2016 is withdrawn from the file of the Senior Civil Judge Court, Nuzvid, Krishna District, and transferred to the file of Family Court, at Eluru, West Godavari District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:12.10.2018

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396