

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.127 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw F.C.O.P.No.756 of 2016 from the file of the Family Court, Vijayawada, Krishna District and transfer the same to the file of the Family Court, Nellore.

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.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 27.09.2015 at Satyanarayanapuram, Vijayawada, as per Muslim rites and 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 a son on 11.07.2016. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house along with her son in Nellore. While the things stood thus, the respondent filed F.C.O.P.No.756 of 2016 on the file of the Family Court, Vijayawada, under Rule 281(d) of Mulla Principles of Mohammedan Law, against the petitioner for restitution of conjugal rights. It is the case of the petitioner that she is facing much difficulty to travel from Nellore to Vijayawada along with her son in order to prosecute F.C.O.P.No.756 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. F.C.O.P.No.756 of 2016 is withdrawn from the file of the Family Court, Vijayawada, and transferred to the file of Family Court, Nellore, for disposal in accordance with law.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
Rns

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396