

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.424 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw O.P.No.25 of 2018 pending on the file of the Court of the Senior Civil Judge, Tanuku, West Godavari District and transfer the same to the Family Court, Rajamahendravaram, East Godavari District.

2 In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence this Court is inclined to pass orders on merits.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 06.05.2001 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 one daughter and one son. Due to 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 children.

4 While things stood thus, the respondent filed O.P.No.25 of 2017 on the file of the Court of the Senior Civil Judge, Tanuku under Section 9 of the Hindu Marriage Act against the petitioner for restitution of conjugal rights. At the time of arguments, the learned counsel for the petitioner submitted that the petitioner filed O.S.No.353 of 2018 on the file of the Court of the Additional Senior Civil Judge, Rajamahendravaram against the respondent seeking maintenance.

5 It is the case of the petitioner that she is facing much difficulty to attend the Court at Tanuku in order to prosecute the O.P. While deciding the petition of this nature, the Court has to consider the inconvenience of the parties to the proceedings, more particularly, the wife.

6 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. Invariably the respondent has to attend the Court at Rajamahendravaram to contest O.S.No.353 of 2018 filed by the petitioner for maintenance. 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.

7 In the result, the petition is allowed, O.P.No.25 of 2018 pending on the file of the Court of the Senior Civil Judge, Tanuku, West Godavari District is withdrawn from the file of the said court and is transferred to the Family Court, Rajamahendravaram for disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: September 27, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178