

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.114 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.117 of 2016 from the file of the Additional Family Court, Visakhapatnam, and transfer the same to the file of the Court of the Principal Senior Civil Judge, Rajahmundry.

2. In spite of service of notice, none appeared on behalf of the second respondent. Hence, this Court is inclined to pass orders on merits.

3. Heard the learned counsel for the petitioner and learned counsel for the first respondent.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the first respondent on 17.11.2004 at Burrilanka Village, Kadiyam Mandal, East Godavari District, as per Hindu Rites and Caste Customs. Immediately after the marriage, the petitioner joined the first respondent to lead marital life. Out of lawful wedlock, the petitioner and first respondent were blessed with one son and daughter. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Burrilanka Village along with her children. While things stood thus, the first respondent filed F.C.O.P.No.117 of 2016 on the file of the Additional Family Court, Visakhapatnam, against the petitioner for dissolution of marriage between them.

5. It is the case of the petitioner that she is facing much difficulty to travel from Rajahmundry to Visakhapatnam in order to prosecute F.C.O.P.No.117 of 2016.

6. A perusal of the record reveals that the first respondent filed O.P.No.60 of 2009, under Section 13(1)(ia) and (ib) of Hindu Marriage Act, on the file of the Court of I Additional Senior Civil Judge, Rajahmundry, against the petitioner for dissolution of marriage between them. After full-fledged trial, the petition was dismissed. By suppressing the factum of order passed in O.P.No.60 of 2009, the first respondent filed F.C.O.P.No.117 of 2016 on the file of the Additional Family Court, Visakhapatnam. This fact itself is sufficient to allow the petition.

7. 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, to the wife and children. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

8. 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 relief sought by the petitioner deserves to be granted.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

9. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.117 of 2016 is withdrawn from the file of the Additional Family Court, Visakhapatnam, and transferred to the file of the Court of the Principal Senior Civil Judge, Rajahmundry, for disposal in accordance with law. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 30.11.2018
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