

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

TRANSFER CIVIL MISCELLANEOUS PETITION No.209 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw O.P. No.2 of 2017 from the file of the Court of Senior Civil Judge, Peddapuram and transfer the same to the file of the Additional Family Court, Visakhapatnam to be tried along with F.C.O.P. No.1155 of 2012.

2. Heard learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 04.12.1996 at Sri Veera Venkata Satyanarayana Swamy Vari Devasthanam, Annavaram, 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 two children. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner along with the children has been residing at her parents' house in Visakhapatnam. The petitioner filed F.C.O.P. No.1155 of 2012 on the file of the Additional Family Court, Visakhapatnam, against the respondent, seeking educational expenses for the children. While the things stood thus, the respondent filed O.P. No.2 of 2017 on the file of the Court of Senior Civil Judge, Peddapuram, against the petitioner under Section 13(1)(ia) (ib) of the Hindu Marriage Act, for dissolution of the marriage between them.

4. It is the case of the petitioner that she is facing much difficulty to travel from Visakhapatnam to Peddapuram to defend O.P. No.2 of 2017 filed by the respondent. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel

along with her children, from Visakhapatnam to Peddapuram, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Additional Family Court, Visakhapatnam in connection with F.C.O.P. No.1155 of 2012.

5. 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 Sreekanth<sup>1</sup>, Sumita Singh v. Kumar Sanjay<sup>2</sup>** and **Rachna Kanodia v. Anuk Kanodia<sup>3</sup>**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

6. 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 can be granted.

7. Accordingly, the Transfer CMP is allowed. O.P. No.2 of 2017 is withdrawn from the file of the Court of Senior Civil Judge, Peddapuram, and transferred to the file of the Additional Family Court, Visakhapatnam, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

**T.SUNIL CHOWDARY, J**

Date: 28.11.2018  
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<sup>1</sup> 2013 (6) ALT 42 (SC)

<sup>2</sup> AIR 2002 SC 396

<sup>3</sup> 2001 (7) Supreme 96