

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.771 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.387 of 2016 from the file of the Additional Family Court at Visakhapatnam, and transfer the same to the file of the Family Court at Srikakulam.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 11.03.2009 at Amudalavalasa, 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 on 02.01.2010. For one reason or other, disputes arose between the petitioner and respondent in the year 2010; therefore, the petitioner has been residing at her parents' house in Srikakulam Town. The petitioner filed M.C.No.12 of 2016 on the file of the Family Court at Srikakulam, against the respondent claiming maintenance. The respondent is facing trial in C.C.No.482 of 2016 on the file of the Court of the Judicial First Class Magistrate, Srikakulam. While things stood thus, the respondent filed F.C.O.P.No.387 of 2016 on the file of the Additional Family Court at Visakhapatnam against the petitioner under Section 13 of the Hindu Marriage Act for dissolution of marriage between them.

4. It is the case of the petitioner that she is facing much difficulty to travel from Srikakulam to Visakhapatnam along with her daughter in order to prosecute F.C.O.P.No.387 of 2016.

Invariably, the respondent has to attend the Family Court, Srikakulam and the Court of Judicial First Class Magistrate, Srikakulam, in view of pendency of M.C.No.12 of 2016 and C.C.No.482 of 2016.

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**¹, **Rachna Kanodia v. Anuk Kanodia**² and **Sumita Singh v. Kumar Sanjay and another**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

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 deserves to be granted.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.387 of 2016 is withdrawn from the file of the Additional Family Court at Visakhapatnam, and transferred to the file of the Family Court at Srikakulam for disposal in accordance with law. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 05.10.2018
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¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396