

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.515 of 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw F.C.O.P.No.80 of 2018 from the file of the Family Court, Visakhapatnam and transfer the same to the Court of Senior Civil Judge, Srikakulam.

2. Heard the 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 13.2.2016 at S.S.N. Kalyana Mandapam, Amadalavalasa, Srikakulam District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Amadalavalasa. The petitioner filed M.C.No.5 of 2018 on the file of the Court of Judicial Magistrate of First Class, Amadalavalasa, against the respondent, seeking maintenance under Section 125 of Cr.P.C. The petitioner also filed D.V.C. No.8 of 2018 on the file of the Court of Judicial Magistrate of First Class, Amadalavalasa, against the respondent, seeking various reliefs. While the things stood thus, the respondent filed F.C.O.P.No.80 of 2018 on the file of the Family Court, Visakhapatnam, against the petitioner under Section 12(1)(a)(b) and (c) of the Hindu Marriage Act, to declare the marriage between the petitioner and the respondent as null and void.

4. It is the case of the petitioner that she is facing much difficulty to attend the Family Court, Visakhapatnam in order to defend F.C.O.P. No.80 of 2018 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 from Amadalavalasa to Visakhapatnam, without the assistance of one of the male members of the family. Invariably the respondent has to attend the Court of Judicial Magistrate of First Class, Amadalavalasa in connection with M.C. No.5 of 2018 and D.V.C. No.8 of 2018.

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 Sreekanth¹, Sumita Singh v. Kumar Sanjay² and Rachna Kanodia v. Anuk Kanodia³**, 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. F.C.O.P.No.80 of 2018 is withdrawn from the file of the Family Court, Visakhapatnam and transferred to the file of the Court of Senior

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

Civil Judge, Srikakulam, for disposal in accordance with law.
Miscellaneous petitions, if any, pending in this transfer petition
shall stand closed.

T. SUNIL CHOWDARY, J

Date: 01.10.2018
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