

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.912 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw M.O.P.No.120 of 2016 from the file of the Court of the Principal Senior Civil Judge at Srikakulam, and transfer the same to the file of the Family Court at Visakhapatnam.

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

3. Heard the learned counsel for the petitioner.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 03.10.2009, 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 daughters. 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 Visakhapatnam. While things stood thus, the respondent filed M.O.P.No.120 of 2016, under Section 9 of Hindu Marriage Act, on the file of the Court of the Principal Senior Civil Judge at Srikakulam against the petitioner for restitution of conjugal rights. As per the averments made in M.O.P.No.120 of 2016, the petitioner is the resident of Visakhapatnam.

5. It is the case of the petitioner that she is facing much difficulty to attend the Court of Principal Senior Civil Judge at

Srikakulam along with her two daughters in order to prosecute M.O.P.No.120 of 2016.

6. 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.

7. 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.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. M.O.P.No.120 of 2016 is withdrawn from the file of the Court of the Principal Senior Civil Judge at Srikakulam, and transferred to the file of the Additional Family Court at Visakhapatnam for disposal in accordance with law. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 03.10.2018
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¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396