

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.120 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw O.P. No.1 of 2017 from the file of the Family Court, Rajamahendravaram, East Godavari District and transfer the same to the file of the Family Court, Secunderabad to be tried along with M.C. No.10 of 2017 and O.P. No.86 of 2017.

2. Heard learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the first petitioner was performed with the respondent on 03.8.2012 at Dolphins Hotel, Rajamahendravaram, as per Hindu rites and caste customs. Immediately after the marriage, the first petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a son i.e., the second petitioner. For one reason or the other, disputes arose between the first petitioner and the respondent; therefore, the first petitioner along with the second petitioner has been residing at her parents' house in Secunderabad. The petitioner filed M.C. No.10 of 2017 on the file of the Family Court, Secunderabad, against the respondent, seeking maintenance. The petitioner also filed O.P. No.86 of 2017 on the file of the Family Court, Secunderabad, against the respondent, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. While the things stood thus, the respondent filed O.P. No.1 of 2017 on the file of the Family Court, Rajamahendravaram, 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 first petitioner that she is facing much difficulty to travel from Secunderabad to Rajamahendravaram to defend O.P. No.1 of 2017 filed by the respondent. As rightly pointed out by the learned counsel for the petitioners, it may not be possible for the first petitioner, to travel along with her minor son-second petitioner, from Secunderabad to Rajamahendravaram, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court, Secunderabad in connection with M.C.No.10 of 2017 and O.P. No.86 of 2017.

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 petitioners can be granted. Learned counsel for the respondent submitted that the presence of the respondent before the Family Court,

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

Secunderabad, in connection with O.P. No.1 of 2017, may be dispensed with on each and every date of adjournment.

7. Accordingly, the Transfer CMP is allowed. O.P. No.1 of 2017 is withdrawn from the file of the Family Court, Rajamahendravaram, and transferred to the file of the Family Court, Secunderabad, for disposal in accordance with law. The presence of the respondent before the Family Court, Secunderabad in connection with O.P. No.1 of 2017, on each and every date of adjournment is dispensed with. However, the respondent shall appear before the Family Court, Secunderabad, as and when his presence is required in connection with O.P. No.1 of 2017. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

Date: 12.10.2018
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T.SUNIL CHOWDARY, J

