

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.554 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.672 of 2018 from the file of the Family Court, Vijayawada and transfer the same to the Family Court, Khammam.

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 24.11.2012 at Mekala Bikshaiah Kalyana Mandapam, Bypass Road, Khammam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. They lived together at Bengaluru for some time. Due to one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Khammam. While the things stood thus, the respondent filed F.C.O.P.No.672 of 2018 on the file of the Family Court, Vijayawada, against the petitioner under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights.

4. It is the case of the petitioner that she is facing much difficulty to attend the Family Court, Vijayawada in order to defend F.C.O.P. No.672 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 Khammam to Vijayawada, without the assistance of one of the male members of the family.

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. Learned counsel for the respondent submitted that presence of the respondent may be dispensed with before the Family Court, Khammam on each and every date of adjournment.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P.No.672 of 2018 is withdrawn from the file of the Family Court, Vijayawada and transferred to the file of the Family Court, Khammam, for disposal in accordance with law. The presence of the respondent before the Family Court, Khammam in connection with F.C.O.P.No.672 of 2018, on each and every date of adjournment, is dispensed with. However, he shall appear before the Family Court, Khammam, as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 01.10.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96