

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.549 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw F.C.O.P.No.65 of 2018 pending on the file of the Court of the Principal Senior Civil Judge, Suryapet and transfer the same to the Court of the Senior Civil Judge, Khammam.

2 Notice sent to the respondent returned with an endorsement "refused to take notice". Refusal to take notice amounts to service of notice on the respondent. Hence this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 26.03.2016 at Khammam as per Hindu rites and caste custom. Immediately after the marriage the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with one son. For one reason or the other, disputes arose between the petitioner and the respondent. Therefore, the petitioner has been residing at her parents' house at Khammam along with her son.

4 While things stood thus, the respondent filed F.C.O.P.No.65 of 2018 against the petitioner on the file of the Court of the Principal Senior Civil Judge, Suryapet under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

5 It is the case of the petitioner that she is facing much difficulty to travel to Suryapet along with her son, in order to prosecute the F.C.O.P.No.65 of 2018. While deciding the petition of this nature,

the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife.

6 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay**¹, **Rachna Kanodia Vs. Anuk Kanodia**², and **V. Sailaja Vs. V. Koteswara Rao**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 petitioner deserves the relief as sought for.

7 In the result, the petition is allowed, F.C.O.P.No.65 of 2018 pending on the file of the Court of the Principal Senior Civil Judge, Suryapet is withdrawn from the file of the said court and is transferred to the Court of the Senior Civil Judge, Khammam for disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

Date: December 14, 2018
Kvsn

T.SUNIL CHOWDARY, J

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178