

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.555 of 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw O.P.No.1209 of 2018 from the file of the Additional Family Court, Visakhapatnam and transfer the same to the Court of Additional District Judge, Narsapur, West Godavari District.

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 04.11.2014 at Hayer Memorial Lutheran Church, Sheela Nagar, Visakhapatnam, as per Christian religious 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 Narsapur. The petitioner filed M.C. No.3 of 2017 on the file of the Court of Additional Judicial Magistrate of First Class, Narsapur, against the respondent, under Section 125 of Cr.P.C., seeking maintenance. The petitioner also filed D.V.C. No.3 of 2017 on the file of the Court of Additional Judicial Magistrate of First Class, Narsapur, against the respondent, under Section 12 of the Protection of the Women from Domestic Violence Act, 2005. While the things stood thus, the respondent filed O.P.No.1209 of 2018 on the file of the Additional Family Court, Visakhapatnam, against the petitioner under Section 10(1)(ix)(x) of the Indian Divorce Act, for dissolution of the marriage between the petitioner and the respondent.

4. It is the case of the petitioner that she is facing much difficulty to attend the Additional Family Court, Visakhapatnam in order to defend O.P. No.1209 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 Narsapur to Visakhapatnam without the assistance of one of the male members of the family. Invariably the respondent has to attend the Court of Additional Judicial Magistrate of First Class, Narsapur in connection with M.C.No.3 of 2017 and D.V.C. No.3 of 2017 filed by the petitioner.

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. O.P.No.1209 of 2018 is withdrawn from the file of the Additional Family Court,

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

Visakhapatnam and transferred to the file of the Court of Additional District Judge, Narsapur, 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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