

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.37 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw O.P. No.55 of 2016 from the file of the Court of Principal Senior Civil Judge, Madanapalle and transfer the same to the file of the Family Court, Nellore and pass such other orders as deem fit and proper in the circumstances of the case.

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 31.10.2009 at GPR Kalyana Mandapam, Nellore, 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 a daughter, who is now aged about five years. 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 Nellore. While the things stood thus, the respondent filed O.P. No.55 of 2016 on the file of the Court of Principal Senior Civil Judge, Madanapalle, 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 petitioner that she is facing much difficulty to travel from Nellore to Madanapalle to defend O.P. No.55 of 2016 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 along with her daughter, from Nellore to Madanapalle, 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.

7. Accordingly, the Transfer CMP is allowed. O.P. No.55 of 2016 is withdrawn from the file of the Court of Principal Senior Civil Judge, Madanapalle and transferred to the file of the Court of Principal Senior Civil Judge, Nellore, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 08.10.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96