

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.576 of 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw O.P.No.1326 of 2018 from the file of Family Court, Visakhapatnam and transfer the same to the file of Family Court, Eluru, West Godavari District.

2. In spite of service of notice, respondent did not choose to appear and oppose the petition; hence, this Court is inclined to pass the order 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 07.12.2013 at Eluru, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. They were blessed with a daughter on 11.11.2014. 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 Eluru. The petitioner filed H.M.O.P. No.40 of 2018 on the file of the Family Court, Eluru, 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.1326 of 2018 on the file of the Family Court, Visakhapatnam, against the petitioner under Section 13(1)(ia) 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 attend the Family Court, Visakhapatnam in order to defend O.P. No.1326 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 Visakhapatnam to Eluru, along with her daughter, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Family Court, Eluru, in connection with H.M.O.P. No.40 of 2018 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 Sreekanth**¹, **Sumita Singh v. Kumar Sanjay**² and **Rachna Kanodia v. Anuk Kanodia**³, 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.1326 of 2018 is withdrawn from the file of the Family Court, Visakhapatnam and transferred to the file of the Family Court, Eluru, West Godavari District for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 03.10.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96