

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.98 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw H.M.O.P. No.2513 of 2016 from the file of the Court of XV Additional District and Sessions Judge-cum-II Additional Family Judge, Ranga Reddy District, Kukatpally at Miyapur and transfer the same to the file of the Family Court, Tenali, Guntur District or any other competent Court.

2. Heard learned counsel for the petitioner. No representation on behalf of the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 24.2.2012 at Tirumala Tirupathi Devasthanam, Tirumala, Chittoor District, 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. 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 Tenali. The petitioner filed D.V.C. No.11 of 2016 on the file of the Court of II Additional Judicial Magistrate of First Class, Tenali, against the respondent under Section 12 of the Domestic Violence Act. The respondent is facing trial in C.C.No.69 of 2016 on the file of the Court of I Additional Judicial Magistrate of First Class, Tenali, for the offence under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act.

The petitioner also filed M.C. No.7 of 2016 on the file of the Court of I Additional Judicial Magistrate of First Class, Tenali, against the respondent, seeking maintenance under Section 125 of Cr.P.C. While the things stood thus, the respondent filed H.M.O.P. No.2513 of 2016 on the file of the Court of XV Additional District and Sessions Judge-cum-II Additional Family Judge, Ranga Reddy District, Kukatpally at Miyapur, 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 travel from Tenali to Hyderabad to defend H.M.O.P. No.2513 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 Tenali to Hyderabad, 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 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.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

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. H.M.O.P. No.2513 of 2016 is withdrawn from the file of the Court of XV Additional District and Sessions Judge-cum-II Additional Family Judge, Ranga Reddy District, Kukatpally at Miyapur and transferred to the file of the Court of Principal Senior Civil Judge, Tenali, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

Date: 10.10.2018
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T.SUNIL CHOWDARY, J

