

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.478 of 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw O.P.No.799 of 2017 from the file of the Family Court, Ranga Reddy District at Miyapur and transfer the same to the file of the Family Court-cum-IV Additional District Judge, Vijayawada.

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 18.10.2010 at Vijayawada, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of the lawful wedlock, they were blessed with a son. While things stood thus, the respondent filed O.P. No.799 of 2017 on the file of the Family Court, Ranga Reddy District at Miyapur, against the petitioner under Section 13(1)(ia) of the Hindu Marriage Act, for dissolution of the marriage.

4. The record reveals that due to one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house at Vijayawada, along with her son. The petitioner filed O.P. No.689 of 2017 on the file of the Family Court-cum-IV Additional District Court, Vijayawada, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rites. It may not be possible for the petitioner to travel from Vijayawada to Hyderabad along with her son, without the assistance of one of the male members of the family.

4. 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.

5. 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. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed before the Family Court, Vijayawada, on each and every date of adjournment.

6. Accordingly, the Transfer CMP is allowed. O.P. No.799 of 2017 is withdrawn from the file of the Family Court, Ranga Reddy District at Miyapur and transferred to the file of the Family Court-cum-IV Additional District Court, Vijayawada, for disposal along with O.P.No.689 of 2017. The presence of the respondent before the Family Court-cum-IV Additional District Court, Vijayawada, on each and every date of adjournment, is dispensed with. However, the respondent shall appear before the trial Court as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 26.7.2018
YS

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96