

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.582 OF 2017

ORDER:

This petition is filed under Section 24 of C.P.C seeking to withdraw D.O.P.No.63 of 2017 pending on the file of the Principal Senior Civil Judge, Kurnool and transfer the same to the Judge, Family Court, Anantapur to try along with FCOP No.165 of 2017.

2. Heard learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 23.05.2015 at R.S. Rangapuram village, Kurnool District, as per Hindu 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 Tadipatri. While things stood thus, the petitioner filed FCOP No.165 of 2017 on the file of the Family Court, Anantapur, against the respondent seeking maintenance under Section 125 Cr.P.C. The respondent filed DOP No.63 of 2017 on the file of the Principal Senior Civil Judge, Kurnool, against the petitioner under Section 13 of Hindu Marriage Act for dissolution of marriage.

4. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Kurnool in order to prosecute D.O.P.No.63 of 2017

5. While deciding the petition of this nature, the Court has to consider the convenience of the parties to the proceedings, more particularly, the wife.

6. A perusal of the record reveals that FCOP No.165 of 2017 is pending against the respondent on the file of Family Court, Anantapur. Invariably, the respondent has to attend the Family Court at Anantapur.

7. As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay**¹, **Rachna Kanodia Vs. Anuk Kanodia**², and **V. Sailaja Vs. V. Koteswara Rao**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 petitioner deserves the relief as sought for. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court, Anantapur on each and every adjournment.

8. In the result, the petition is allowed. D.O.P.No.63 of 2017 pending on the file of the Principal Senior Civil Judge, Kurnool, is withdrawn from the file of the said court and is transferred to the Family Court, Anantapur, for disposal in accordance with law. The presence of the respondent before the Family Court, Anantapur in connection with D.O.P. No.63 of 2017 is hereby dispensed with on each and every date of adjournment. However, the respondent shall appear before the Family Court, Anantapur, as and when his presence is required. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Dated: 11-09-2018

Hsd

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178