

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No. 743 OF 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner-wife, under Section 24 of CPC, seeking to withdraw H.M.O.P.No. 42 of 2018 from the file of Senior Civil Judge's Court, Medak, and transfer the same to the file of the Senior Civil Judge's Court, Kamareddy.

2. Heard the learned counsel for the petitioner.

3. This Court ordered notice to the respondent on 22-11-2018. The notice sent to the respondent is returned with an endorsement 'respondent refused to take notice'. Refusal to take notice by the respondent amounts to sufficient service of notice. Hence, this Court is inclined to pass orders on merits.

4. A perusal of the record reveals that marriage of the petitioner was performed with the respondent on 23-04-2004 as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with two children. For one reason or other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house at Kamareddy Town. The petitioner filed M.C.No.38 of 2017 on the file of Additional Judicial I Class Magistrate's Court (Special Mobile Court), Kamareddy against the respondent seeking maintenance. The petitioner also filed D.V.C.No.38 of 2017 against the respondent and others

seeking various reliefs on the file of Additional Judicial I Class Magistrate's Court (Special Mobile Court), Kamareddy. While things stood thus, the respondent filed H.M.O.P.No. 42 of 2018 on the file of Senior Civil Judge's Court at Medak under Sections 13 (1) (ia) and (ib) of Hindu Marriage Act, 1955, against the petitioner for dissolution of the marriage between them.

5. It is the case of the petitioner that she is facing much difficulty to travel from Kamareddy to Medak to defend H.M.O.P. No.42 of 2018. Invariably, the respondent has to attend Additional Judicial I Class Magistrate's Court, Kamareddy, in connection with D.V.C.No.38 of 2017 and M.C.No.38 of 2017.

6. While deciding a petition of this nature, the Court has to take into consideration the inconvenience of the parties to the proceedings, more particularly the wife and the children. 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 inconvenience of wife.

7. Taking into consideration the facts and circumstances of the case and also the principle enunciated in the cases cited *supra*, I am of the considered view that it is a fit case to allow the petition.

8. In the result, the petition is allowed withdrawing H.M.O.P.No. 42 of 2018 on the file of Senior Civil Judge's Court at Medak and the same is transferred to Senior Civil Judge's Court, Kamareddy, for disposal in accordance with law.

¹ AIR 2002 SC 396

² 2001 (7) SUPREME 96

³ AIR 2003 AP 178

9. Pending miscellaneous petitions, if any, in this transfer civil miscellaneous petition shall stand closed in consequence. No costs.

T.SUNIL CHOWDARY, J

Date: 19.12.2018
JSK

