

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.673 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.285 of 2018 from the file of the Additional Family Court-cum-V Additional District Court, Visakhapatnam, and transfer the same to the file of the Family Court at Tirupati.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 13.02.2016 at Tiruchanur, Tirupati, 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 one daughter. Unfortunately, the daughter of the petitioner and respondent died. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Tirupati. The petitioner filed M.C.No.6 of 2018, under Section 125 Cr.P.C., on the file of the Court of V Additional Junior Civil Judge, Tirupati, against the respondent claiming maintenance. While things stood thus, the respondent filed F.C.O.P.No.285 of 2018, under Section 9 of Hindu Marriage Act, on the file of Additional Family Court-cum-V Additional District Court, Visakhapatnam, against the petitioner for restitution of conjugal rights.

4. It is the case of the petitioner that she is facing much difficulty to travel from Tirupati to Visakhapatnam in order to

prosecute F.C.O.P.No.285 of 2018. Invariably, the respondent has to attend the Court of V Additional Junior Civil Judge, Tirupati, in view of pendency of M.C.No.6 of 2018.

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 Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

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 deserves to be granted.

7. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court at Tirupati on each and every date of adjournment.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.285 of 2018 is withdrawn from the file of the Additional Family Court-cum-V Additional District Court, Visakhapatnam, and transferred to the file of the Family Court at Tirupati for disposal in accordance with law. The presence of the respondent in connection with F.C.O.P.No.285 of 2018 on the file of the Family Court at Tirupati is dispensed with on each and every

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

date of adjournment. However, he shall appear before the Family Court as and when his presence is so required. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 15.12.2018
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