

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.706 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw H.M.O.P.No.92 of 2018 from the file of the Court of the Additional Senior Civil Judge at Ongole and transfer the same to the file of the Family Court at Rajahmundry.

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 19.04.2017 at Gummallapadu Village of Prakasam 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 other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Rajahmundry. The petitioner filed D.V.C.No.45 of 2018 on the file of the Court of VI Additional Judicial First Class Magistrate, Rajamahendravaram, against the respondent seeking various reliefs. While things stood thus, the respondent filed H.M.O.P.No.92 of 2018, under Section 9 of Hindu Marriage Act, on the file of the Court of the Additional Senior Civil Judge at Ongole 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 Rajahmundry to Ongole in order to prosecute H.M.O.P.No.92 of 2018. Invariably, the respondent has to attend the Court of VI Additional Judicial First Class Magistrate, Rajamahendravaram, in view of pendency of D.V.C.No.45 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 Rajahmundry on each and every date of adjournment.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.92 of 2018 is withdrawn from the file of the Court of the Additional Senior Civil Judge at Ongole and transferred to the file of the Family Court at Rajahmundry for disposal in accordance with law. The presence of the respondent in connection with H.M.O.P.No.92 of 2018 on the file of the Family Court at Rajahmundry is dispensed with on each and every date of adjournment. However, he shall appear before the Family Court as

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

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: 20.12.2018

Ivd

